Supreme Court, U.S.
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10-632 OCT 15 2010

No. OFFICE OF THE CLERK

In The
Supreme Court of the United States

In re WILLIAM M. WINDSOR

WILLIAM M. WINDSOR,
Petitioner

v.

UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS. AND DOES 1 TO 100,
Respondent

On Petition for Writ of Mandamus
To The United States Court of Appeals for The Eleventh Circuit

PETITION FOR WRIT OF MANDAMUS

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QUESTIONS PRESENTED

Windsor is seeking a Petition for Writ of Mandamus to disqualify United States District Court Judge William S. Duffey, Jr. from presiding in any civil actions involving Windsor. Windsor seeks this relief pursuant to Supreme Court Rule 20 as authorized by 28 U.S.C.§1651(a).

1. Based upon the following facts: The Petitioner is a normal, 62 year old man, husband of 39 years, father, grandfather, corporate executive who has never been arrested. He is perfectly sane, highly intelligent, worked as a CEO for both Goldman Sachs and Bain Capital running significant companies, and does not have an evil bone in his body. The Petitioner and the judge had never heard of each other when the judge was asked to quash a subpoena for a deposition of a fellow judge. Based solely on affidavits from the Petitioner, the judge issued an order describing the Petitioner as "scurrilous and irresponsible."

   The question presented is:

   Whether the judge proclaiming that the Petitioner is

   evil and mentally and financially incapable

   will cause reasonable people to feel the judge's impartiality might reasonably be questioned

in a subsequent legal action involving the Petitioner.

If so, the judge must be disqualified.

2. Whether many courts are wrong in continuing to claim extrajudicial bias is required for recusal.

3. Whether pervasive bias justified recusal.

4. Whether the federal courts in Atlanta, Georgia should be allowed to ignore the facts and the law.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 29.6 Petitioner states the following:

This petition is filed on behalf of an individual.

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[1] The Appendix is provided in three volumes – Appendix Volume 1, 2, and 3. The exhibits to the affidavits provided herein have not been included in this Appendix due to the volume. If this Court wants to see the exhibits, the Petitioner can easily provide them.

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OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit is provided in Volume 3 of the Appendix to the Petition ("Pet.App.") at 324.

JURISDICTION

This Court is authorized to issue a Writ of Mandamus pursuant to 28 U.S.C.§1651(a) in aid of its respective jurisdiction under 28 U.S.C.§1254.

STATUTES INVOLVED

This case involves 28 U.S.C.§144, 28 U.S.C.§455, the United States Constitution and the First, Fifth, Sixth, Eighth and Fourteenth Amendments, the Code of Judicial Conduct, and the Court's Inherent Powers.

STATEMENT OF THE CASE

A. Jurisdiction Below

The United States District Court for the Northern District of Georgia has subject matter jurisdiction over Civil Action No.1:09-CV-02027-WSD ("MIST-2") and Civil Action No.1:09-CV-01543-WSD ("Deposition_Action") pursuant to 28 U.S.C.§1331, which confers original jurisdiction for actions arising under the laws of the United States and 28 U.S.C.§1367, which confers jurisdiction ancillary to this District Court's original exercise of jurisdiction in ***Maid of the Mist v. Alcatraz***, Civil Action No.1:06-CV-0714-ODE ("MIST-1") [2]

The United States Court of Appeals for the Eleventh Circuit had jurisdiction pursuant to the All Writs Act, 28 U.S.C.§1651(a).

B. Statement of Facts[3]

This is a request for a writ of mandamus to be issued by this Court directing that Judge William S. Duffey, Judge of the United States District Court for

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[2] Citations are provided herein to three dockets. Civil Action No.1:06-CV-0714-ODE is "MIST-1." Civil Action No.1:09-CV-01543-WSD is the "Deposition_Action." Civil Action No.1:09-CV-02027-WSD is "MIST-2," the underlying action in this petition.

[3] These facts are uncontroverted. This "Statement of Facts" is supported by sworn affidavits that have been filed in 2009 and 2010 by the Petitioner. None of this has been disputed in any manner by affidavits or testimony of any of the Defendants in any civil action.

the Northern District of Georgia ("Judge Duffey"), be disqualified from presiding in any civil action involving Windsor.

In August 2005, Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (jointly "Maid") filed a civil action against Alcatraz Media, LLC, Alcatraz Media, Inc. (jointly "Alcatraz") and William M. Windsor ("Windsor" or the "Petitioner") (Alcatraz and Windsor jointly "A&W.") The action was filed in Gwinnett County Georgia Court. It was removed to the United States District Court for the Northern District of Georgia in March 2006 as Civil Action No.1:06-CV-0714-ODE ("MIST-1"). The action was assigned to Judge Orinda D. Evans ("Judge Evans.")[4]

Judge Evans granted a summary judgment to Maid on tortious interference with alleged damages of less than $100, though (1) A&W provided sworn affidavits from the four customers involved who allegedly did not spend $100, and each swore that they did buy tickets from Maid, so there were no damages, and (2) the only sworn testimony before the court was that there was an oral contract breached by Maid, and thus there was no tortious interference by Alcatraz.

A&W swore under oath at all times that Maid made up all of the sworn claims in the Verified Complaint and motion for injunctive relief in MIST-1. Judge Evans refused to even consider A&W's charges of perjury, false sworn pleadings, and Rule 11

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[4] MIST-1_Doc.1.

violations by Maid and Maid's attorneys. The Petitioner documented all the lies with citations to the record, and most of the lies have been proven with the sworn testimony of the Maid managers.

A&W reached an out-of-court settlement with Maid in December 2008 to stop the legal expense in MIST-1 at approximately $1,000,000. (Yes, it cost A&W over one million dollars in legal fees on a bogus claim of $100 in damages.) A&W refused to provide and did not provide general releases to Maid or Maid's Attorneys.

In April 2009, the Petitioner began efforts to reopen the case pursuant to FRCP Rule 60(b) primarily due to fraud upon the courts. A major factor was the discovery of new evidence that had been concealed from A&W by Maid and Judge Evans.[5]

On June 3, 2009, the U.S. Attorney representing Judge Evans filed a motion to quash a subpoena for the deposition of Judge Evans in MIST-1. [Pet.App.171--Mandamus Affidavit #1--"M-Aff #1",¶39.] [6] [Deposition_Action Doc.1.][7]

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[5] MIST-1_Docs.361 and 362.

[6] The Mandamus Affidavit of William M. Windsor is on pages 161-185 in the Appendix (Pet.App.). "M-Aff #" is the abbreviation used for this affidavit herein. "Doc." is the abbreviation for Docket used herein.

[7] "Pet.App. ###" indicates page number in the Appendix to this Petition for Writ of Mandamus.

The motion was referred to Judge Duffey, and this created Civil Action 1:09-CV-01543-WSD.[8]

Judge Duffey had never had any dealings with the Petitioner prior to the referral of the motion to quash. The Petitioner had never heard the name "Judge William S. Duffey" either. There was no conference held, and there was no hearing held, despite the Petitioner's motions requesting both.[9]

On June 8, 2009, Judge Duffey stayed the properly subpoenaed deposition.[10] Judge Duffey made a number of false statements in the stay order.[11] The order was totally pro-Judge Evans, and it first indicated that Judge Duffey was biased.[12]

On June 10, 2009, the U.S. Attorney supplemented Judge Evans' motion to quash.[13]

On June 18, 2009, the Petitioner filed a Motion for Reconsideration of the Order Staying Case and the Twenty-Ninth Declaration of William M. Windsor (Dec #29).[14][15] This was filed to note errors in Judge Duffey's order.[16]

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[8] Pet.App.171--M-Aff #1,¶40.
[9] Pet.App.171--M-Aff #1,¶41.
[10] Deposition_Action_Doc.4; Pet.App.172--M-Aff #1, ¶42.
[11] Pet.App.161-170,190-191, Affidavit of Prejudice ¶¶34-67 and 118-121.
[12] Pet.App.172--M-Aff #1,¶43.
[13] Deposition_Action_Doc.8; Pet.App.127--M-Aff #1,¶45.
[14] Declarations and affidavits of William M. Windsor have been numbered. "Dec #__" is used as the abbreviation for each. Dec #5 is the Fifth, Dec #34 is the Thirty-Fourth, etc.
[15] Deposition_Action_Doc.15.
[16] Pet.App.172--M-Aff #1,¶47.

On June 22, 2009, the Petitioner filed a Response to the Motion to Quash and Dec #35.[17]

On June 22, 2009, the Petitioner also filed a Response to the Motion to Supplement Motion to Quash and the Thirty-Fourth Declaration of William M. Windsor ("Dec #34").[18]

On June 30, 2009, an Order to Quash the Deposition of Judge Evans was issued by Judge Duffey.[19][20] The order described the Petitioner as "scurrilous and irresponsible."

This was written by a man who did not know the Petitioner, had never even seen him, and who made such a statement and decision based solely on the Petitioner's three uncontroverted sworn affidavits. In 2009, there were zero (0) affidavits filed by Maid in MIST-1, the Deposition Action, or MIST-2. The Petitioner's testimony and evidence stood alone as the record before the court.[21] There was no evidence before Judge Duffey to allow him to make such a biased slur.

As detailed in the Pet.App. on pages 73-76, the Petitioner is not scurrilous and irresponsible.

The only explanation for this slander is that Judge Duffey was predisposed to bias against the

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[17] Deposition_Action_Doc.21; Pet.App.172--M-Aff #1,¶49.
[18] Deposition_Action_Doc.24; Pet.App.173--M-Aff #1,¶50.
[19] Deposition_Action_Doc.32.
[20] Pet.App.24.
[21] Pet.App.173--M-Aff #1,¶51.

Petitioner because he had the audacity to try to depose Judge Evans to obtain information to prove fraud upon the court that was available only from Judge Evans that the Petitioner desperately needed to reopen the case in MIST-1.[22]

There is nothing scurrilous and irresponsible in the three affidavits that Judge Duffey had before him when he entered the June 30, 2009 order – Dec #29, Dec #35, and Dec #34. The statements made therein are no different than the statements made herein. Judge Evans had made as many as 200 false statements in two orders in MIST-1. She knew statements that she made in her orders were false. She obstructed justice by concealing documents from the Petitioner. These are facts, proven with evidence that the Petitioner has filed in each of the three civil actions.

On July 27, 2009, the Petitioner filed a complaint to begin MIST-2, an independent action in equity for fraud upon the court and RICO.[23]

On July 28, 2009, when the Petitioner was told by the District Court Clerk's Office that Judge Duffey would be presiding in MIST-2, the Petitioner immediately went home and prepared a Motion to Recuse Judge Duffey and a Motion for Change of Venue. He returned later in the day and filed.[24]

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[22] Pet.App.173–M-Aff#1,¶51.
[23] Pet.App.173-174,¶53; MIST-2_Doc.1.
[24] MIST-2_Docs.15 and 17; Pet.App.174--M-Aff #1,¶55.

On July 30, 2009, a TRO Hearing was held. Judge Duffey denied the motion.[25] Judge Duffey distributed an order on the Petitioner's motions regarding service of process on Canadian defendants, representation, motion to change venue, and motion to recuse. All were denied.[26]

Judge Duffey was antagonistic and biased in the hearing. Details of this are provided in Pet.App. 54-70 and are shown in the Transcript of the Temporary Restraining Order Hearing.[27] False statements in the July 30, 2009 order are listed in the Affidavit of Prejudice.[28]

On August 4, 2009, the Petitioner filed an Emergency Motion to Recuse Judge Duffey. The Petitioner advised Judge Duffey that he would seek a Writ of Mandamus if there was not a prompt response. This motion appears on the MIST-2 Docket as a "Motion for Leave" because Judge Duffey ordered that the Petitioner must first submit proposed motions to him with a request for approval to file.[29] This motion was pursuant to 28 U.S.C.§144. The filing included an Affidavit of Prejudice[30] and a 28 U.S.C.§144 Certificate of Good Faith.[31]

On August 10, 2009, the Petitioner filed a Petition for a Writ of Mandamus with the Eleventh

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[25] MIST-2_Doc.31.
[26] Pet.App.19; Pet.App.174--M-Aff #1,¶56; MIST-2_Doc.22.
[27] MIST-2_Doc.48; Pet.App.174,¶56.
[28] Pet.App.71-77, ¶¶121-141; Pet.App.174--M-Aff #1,¶56.
[29] MIST-2_Doc.36.
[30] Pet.App.161.
[31] Pet.App.114; Pet.App.174-175--M-Aff #1,¶57.

Circuit seeking to have Judge Duffey disqualified.[32] The Affidavit of Prejudice[33] and a 28 U.S.C.§144 Certificate of Good Faith[34] were included as exhibits.

On September 8, 2009, the Petitioner filed a Reply to Opposition to Emergency Motion to Recuse Judge Duffey.[35]

On September 17, 2009, the Eleventh Circuit denied the Petition for a Writ of Mandamus.[36]

On October 26, 2009, the Petitioner filed a Request for Specific Approval to file Notice of Intent to Appeal to the United States Supreme Court.[37]

On November 2, 2009, Judge Duffey granted permission for the Petitioner to file an appeal to this Court. The requirement of filing Requests for Approval before anything can be filed was made by Judge Duffey in his order dated July 30, 2009. The Petitioner filed a Petition for Writ of Certiorari within 90 days from the order granting approval by the District Court.[38] The Petition was rejected due to being more than 90 days from the order of the Eleventh Circuit. The Petitioner called The Supreme Court Clerk's office prior to filing to ask if the time for filing was 90 days from the order granting permission to file. The Petitioner was

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[32] Pet.App.116.
[33] Pet.App.161
[34] Pet.App.114.
[35] Mist-2_Doc.1.
[36] Pet.App.4.
[37] Pet.App.186.
[38] Pet.App.3 and 18.

advised to include a letter explaining the situation, which he did.

Windsor had also appealed the orders entered by Judge Duffey on September 25, 2009 and October 20, 2009. An order was issued by the Eleventh Circuit dismissing the appeal for lack of jurisdiction.[39] The Petitioner is filing this Petition for Writ of Mandamus as Judge Duffey cannot be allowed to preside with demonstrated bias.

Judge Duffey has demonstrated pervasive bias ever since he called Windsor "scurrilous and irresponsible." Word limits in this Petition do not allow Windsor to detail everything. Judge Duffey's has shown pervasive bias through many improper actions. He intentionally made absolute false statements in orders to damage Windsor and protect Judge Evans and others. He used a wide variety of techniques to block Windsor's access to the two documents that will prove fraud upon the court and obstruction of justice. He denied Windsor's access to the courts by implementing filing restrictions without notice and without the opportunity to be heard. In the Deposition_Action, Judge Duffey has ignored five motions filed by Windsor in July and August 2010 including a motion for recusal filed on July 21, 2010 (Deposition_Action Doc. 65).

On September 23, 2010, Windsor had a courier deliver several motions to the Clerk's office for filing. Though there was no restriction of any type on filing in Civil Action No. 1:09-CV-01543-

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[39] Pet.App.A.

WSD, the Clerk refused to file them. The Clerk, Miss Anniva Sanders, told Windsor that she had been advised "by Chambers" to refuse to file the motions.

Windsor spoke to Ms. Jessica Birnbaum who advised him that Judge Duffey issued an "oral order" requiring that Windsor first seek request for specific approval before filing anything. The excuse was that Windsor had requested a stay due to medical problems, and the case was closed. As the court Docket shows, the Plaintiffs were allowed to file Docket Nos. 55, 56, 75, 76, 77, 82, 83, and 84 between June 17 and September 3, 2010 after the case was closed, while Windsor was having eye surgeries, and without any requirement to request specific approval to file. The Docket also shows that Windsor's motions for stay Docket 63 (July 19, 2010), Docket 79 (August 6, 2010), Docket 80 (August 26, 2010) were ignored by Judge Duffey. This demonstrates the bias of Judge Duffey.

Since September 23, 2010, Judge Duffey has failed to grant his approval for the filing of 10 motions, including two motions for stays due to medical emergency, a motion for a conference, and a motion for a hearing. There is no reason to block the filing of any of these motions.

In MIST-2, Judge Duffey has granted every request for specific approval filed by the Defendants. He has denied nine of Windsor's requests for specific approval to file, including a motion to strike false statements made by the attorney for most of the defendants [MIST-2_Doc.57]; a request for a

conference [MIST-2_Doc.113]; three requests on stays due to medical emergency [MIST-2_Docs.139-144-157]; a request to file a Verified Complaint of Professional Misconduct Against the Attorney Defendants [MIST-2_Doc.158]; and a request to file an affidavit that provided complete proof of most of Windsor's claims in his Verified Complaint [MIST-2_Doc.159]. Judge Duffey has completely ignored 18 requests for specific approval to file by Windsor, including filing of proofs of service [MIST-2_Docs.54-60]; motion to strike the answer of Defendants [MIST-2_Doc.119]; motion to file brief on judicial immunity [MIST-2_Doc.123]; motion form the Court to take judicial notice of the evidence in related cases [MIST-2_Doc.125]; and a motion to name DOE Defendants [MIST-2_Doc.146].

Orders have been issued by Judge Duffey that have ignored the facts, ignored the law, cited erroneous case law, cited case law that does not support the subject of the citation. Orders have been issued that contained false statements and perjury.

As justification for denying MIST-2_Doc.144, Motion for Extension of Time; Motion for Discovery; Motion for In Camera Review; and Motion for Hearing and granting motions to dismiss, Judge Duffey claimed Windsor did not submit to him a required report on his medical status on September 1, 2010. This is absolutely false. The report is provided in Appendix 3, p.324, dated August 31, 2010 for delivery on September 1, 2010. In addition to this report, Windsor also reported on June 17; July 21 and 27; September 1, 10, 15, 23, and 30; and October 1, 7, 11, 15, 18, 19, 21. (Appendix 3, pp 326-

373.)

Judge Duffey dismissed the case under absolutely false pretenses. He did it while a stay order was in effect. He did it while ignoring the responses that Windsor timely filed on August 18, and he did it while refusing to file the evidence and legal arguments that Windsor had to submit as "requests for specific approval to file."

As part of the factual background, it is important to understand what took place before Judge Duffey entered the picture.

In MIST-1, four Maid managers committed hundreds of counts of perjury and committed a conspiracy to commit fraud. (See MIST-1_Doc.377.)[40]

Maid's managers and attorney, Mr. Carl Hugo Anderson, lied many hundreds of times. (See MIST-1_Doc.377–Exhibits_1-8,10-21 for each false statement and the proof of the falsity.)[41]

The lies, false sworn pleadings, false pleadings, and discovery abuse continued throughout MIST-1.

Maid and their attorneys used a deliberately planned unconscionable scheme to fraudulently subvert the integrity of the judicial process. Proof of the unconscionable scheme, and of its complete success to date, is conclusive in the Docket of MIST-1

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[40] Pet.App.175--M-Aff #1,¶59-60.
[41] Pet.App.176--M-Aff #1,¶62.

and MIST-2_Doc.1.[42] The many issues of professional misconduct are detailed in MIST-1_Doc.474 and Dec#25 (MIST-1_Doc.462).

The Petitioner filed motions for sanctions against Maid's attorneys that provide additional details of attorney misconduct. [MIST-1_Doc.363 and 364]. But Judge Evans ignored it all. She never allowed it to be discussed, and she refused repeated motions for hearings and conferences. In four years, Judge Evans has never granted the Petitioner a single conference or hearing. Never.

Judges are supposed to tell the truth at all times, but Judge Evans has made false statements routinely. Proof of the false statements in the orders has been documented in MIST-1_Doc.362 and 377 with citations to Maid's witnesses proving that many statements are false.[43]

These were material false statements made under the Judge's oath of office in a federal proceeding. Judge Evans knew statements that she made were false.[44]

Judge Evans ignored everything in MIST-1 from May until December 22, 2009 when she issued an order denying all pending motions en masse and enjoining the Petitioner from filing anything further

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[42] See MIST-1_Doc.474, Pet.App.176-M-Aff #1,¶63.
[43] MIST-1_Doc.377, Exhibits 9 and 22; see Pet.App.90-101, ¶¶189-264.
[44] MIST-1_Doc.174, P23: 24-25, P24: 1-7, P34: 4-7, P44: 6-8.

in any federal, state, or appellate court. Several appeals are pending at the Eleventh Circuit.

Judge Evans has committed obstruction of justice by withholding material evidence that should have been provided to A&W. Judge Evans received two contracts for an in camera inspection in February 2007. Judge Evans claimed the contracts were not relevant to the case, but that was false.

A&W finally obtained the contracts through a FOIL request in 2009, so the Petitioner knows that the contracts contained extremely important information, and the Petitioner is convinced that Maid filed bogus documents with Judge Evans. These documents are referenced in MIST-1_Doc.168, and the production requirement is noted in MIST-1_Doc.174 - Hearing of February 2, 2007, P 61-62. (See First Declaration of William M. Windsor -- Dec#1, ¶¶15-32 and Exhibits 1 and 2 thereto.)[45] Judge Evans refused to produce these documents after a subpoena, and she denied a motion to lift the seal without any justification whatsoever. These documents will prove that MIST-1 should be reopened. These documents will prove fraud. The Petitioner has no way to get the documents because Judge Evans is concealing them.

Judge Evans routinely ignored the facts and the law and even invented her own facts.[46] Judge Evans made rulings in MIST-1 that are contrary to the law. She granted a summary judgment for Maid

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[45] MIST-1_Doc.361.

[46] Pet.App.99, ¶245; Pet.App.178- M-Aff #1,¶78.

on the key issue in the case – an oral agreement for six months in 2005 -- based upon the following: Maid testified that its president was not aware of an agreement with Alcatraz. There was no other testimony from Maid other than this one statement in the Verified Complaint! Alcatraz provided a Verified Answer, multiple sworn affidavits, and extensive deposition testimony detailing the exact terms of the oral agreement from the people who made the oral agreement with Maid. This clearly created at least a fact issue that defeated summary judgment, but Judge Evans invented facts that weren't true and weren't in the record, ignored the truth, and claimed her facts trumped the A&W's sworn testimony. As there was a contract, there was no tortious interference, but there was breach of contract by Maid, and A&W should have won the case.[47]

Detailed background facts regarding the professional misconduct of Judge Evans are provided in Dec#23.[48] Dec#23 details what Judge Evans did throughout this case. Other violations are detailed in Dec#25.[49]

The worst of hardships have resulted from the dishonesty in this case. A&W have lost approximately $1,500,000.00, have been saddled with an injunction that is a violation of Georgia law, have been defamed, and have lost years of man hours fighting the injustice. Now others are unfairly using the erroneous decision in this case in litigation

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[47] MIST-2_Doc.1.
[48] MIST-1_Doc.406.
[49] MIST-1_Doc.462.

against Alcatraz in efforts to "void" O.C.G.A. 43-4B. To Alcatraz, the financial cost represents years of pre-tax profits. To the Petitioner, the financial cost represents money that this retiree expected to live on in retirement.[50]

Judge Duffey ignored all of the above when it was spelled out for him in precise detail in MIST-2. Details of the earliest wrongs ignored by Judge Duffey are provided in MIST2-Doc.1 and the Affidavit of Prejudice.[51] There has been much more since these were written.

In denying a Motion to Recuse, Judge Duffey stated that extrajudicial bias is required for recusal. On the Petition for Writ of Mandamus, the Eleventh Circuit also ruled: "Windsor has not shown bias stemming from an extra judicial source." But Judge Duffey's bias IS extrajudicial.

C. Petition for Writ of Mandamus

The Petitioner files this Petition for a Writ of Mandamus in order to compel the Eleventh Circuit and the United States District Court for the Northern District of Georgia to obey the law. The federal courts in Atlanta are in breach of the criminal statute on misprision of felony, among many others, and in breach of the Constitutional duty to take care of the faithful execution of the laws. The Petitioner respectfully requests that this Court order the Eleventh Circuit and the United

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[50] MIST-2_Doc.1.

[51] Pet.App.85-104,¶¶172-276.

States District Court for the Northern District of Georgia to disqualify Judge Duffey from presiding in any matters involving Windsor and to perform their duties under the Constitution and under the criminal statute on misprision of felony relating to MIST-2 and MIST-1.

REASONS FOR GRANTING THE PETITION

I. THE JUDGE MUST NOT BE ALLOWED TO CALL THE PETITIONER "EVIL AND MENTALLY AND FINANCIALLY INCAPABLE" AND THEN PRETEND TO BE IMPARTIAL. JUDGES MUST NOT BE ALLOWED TO USE THEIR BIAS TO DAMAGE A PARTY.

A reasonable person would question the impartiality of any judge who called a person evil and irresponsible.

The idea that Judge Duffey could call the Petitioner "scurrilous and irresponsible" and then claim to be impartial is ludicrous.

Besides being totally false, these words demonstrate extreme antagonism. There are not many things that one could say worse about another human being than to call him EVIL.

What makes Judge Duffey's words even more outrageous is that he used these words when the only evidence before the court was the sworn affidavits of the Petitioner under penalty of perjury.

The Petitioner's statements under oath were absolutely true, documented with citations to the record, and uncontroverted.[52]

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[52] Pet.App.42,¶38.

Judge Duffey's only other source of information was prejudice for his friend and next-door neighbor and bias against anyone who would have the audacity to attempt to depose a fellow judge.

A reasonable person would say that branding someone as "**scurrilous and irresponsible**" provides a textbook example of "impartiality might reasonably be questioned." How could anyone even dream that a judge could be impartial after publishing on the Internet for the world to see that **WINDSOR IS EVIL AND IRRESPONSIBLE**? No honest person could. The Petitioner has fairly and impartially presented the facts to normal people, and all say "lacks impartiality."[53]

Judges have been disqualified for far less.

> "It was in the course of these rulings that Judge Hauk made the remark that Gupta was a "bad apple." Because...Gupta had never previously appeared before the Judge, the Judge's opinion stemmed from an extrajudicial source. See ***Pau***, 928 F.2d at 885. Moreover, regardless of the merits of the rulings on the withdrawal of claim and other matters, the timing of Judge Hauk's remark indicates that he based the rulings on his negative opinion of Gupta." "Accordingly, Judge Hauk abused his discretion by failing to recuse himself." "We therefore reverse the judgment and remand this case for further

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[53] Pet.App.178–M.Aff#1,¶73.

proceedings before a different Judge. (***United States v. Real Property Located at 25445 Via Dona Christa***, 959 F.2d 243 (9th Cir. 04/10/1992).)

Judge Duffey must be disqualified.

II. THE "SCURRILOUS AND IRRESPONSIBLE" WORDS OF JUDGE DUFFEY CAME FROM AN EXTRAJUDICIAL SOURCE.

Judge Duffey did not know the Petitioner when he branded him "scurrilous and irresponsible."

Judge Duffey has demonstrated a bias against pro se parties and anyone who would take action against a fellow judge, his next-door neighbor.

Judge Duffey had a preconceived idea of MIST-2 from information that came from outside the case. Judge Duffey called the Petitioner "**scurrilous and irresponsible**" before MIST-2.

There are two forms of bias at work in MIST-2. Judge Duffey has a pervasive antagonistic bias against the Petitioner, and Judge Duffey has a pervasive bias in favor of Defendant Judge Evans. This is demonstrated in the Affidavit of Prejudice[54] and the Statement of Facts above.

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[54] Pet.App.85-104,¶¶172-276.

The bias comes from "outside of the courtroom." While the prejudice against pro se parties may have come from Judge Duffey's experience as a judge or as an attorney, this prejudice did not emanate from in-courtroom experience with the Petitioner.

Judge Duffey's prejudice for Judge Evans is similarly "extrajudicial." While the prejudice undoubtedly comes from his personal relationship with his friend and next-door neighbor, Judge Evans, the prejudice did not come from an in-courtroom experience with the Petitioner.

The bias manifested itself in an order issued by Judge Duffey in a prior proceeding on June 30, 2009 when the only admissible facts before him were the Petitioner's sworn affidavits.[55]

This means Judge Duffey decided the Petitioner was scurrilous and irresponsible for telling the truth under oath under penalty of perjury before a notary!

Justice Scalia has stated that so-called "extrajudicial bias" includes earlier judicial proceedings by the same judge:

> "Douglas' use of the term 'extrajudicial' in ***U.S. v. Grinnell Corp.*** 384 U.S. 563 (1966) simply meant 'a source outside the judicial proceeding at hand – which would include as

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[55] Pet.App.24.

> extrajudicial sources earlier judicial proceedings conducted by the same judge...."' (***Liteky v. United States***, 510 U.S. 540 at 551, 114 S.Ct. 1147, 1157, 127 L.Ed.2d 474 (1994).)

Judge Duffey acquired a dislike for the Petitioner because of events outside the instant case. According to ***Liteky***, this is "extrajudicial," yet the Eleventh Circuit ruled it was not extrajudicial. [Pet.App._5.] The District Court ruled it was not extrajudicial. [Pet.App._16.]

The Petitioner identified legal and factual errors in the Deposition Action that that gave rise to an inference of bias. Scurrilous and irresponsible should be enough, but there is more.[56]

III. THE AVERAGE REASONABLE PERSON WOULD DOUBT THAT JUDGE DUFFEY COULD BE IMPARTIAL.

The impartiality of Judge Duffey must be questioned.

Judge Duffey simply cannot slander Windsor as "scurrilous and irresponsible" and then pretend he can be impartial as he has done. This is outrageous!

The standard for review in recusal is not what Judge Duffey thinks; it is what <u>reasonable</u> <u>people</u> think.

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[56] Pet.App.41-54,¶¶34-80 and Pet.App.70-71,¶¶118-121.

"'A party seeking recusal need not show actual bias on the part of the court, only the possibility of bias . . . Under§455(a), if a reasonable man, were he to know all the circumstances, would harbor doubts about the judge's impartiality under the applicable standard, then the judge must recuse.'" *Selkridge v. United of Omaha Life Ins. Co.*, 360 F.3d 155, 167 (3d Cir. 2004) (quoting *Krell v. Prudential Ins. Co. of Am.* (*In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*), 148 F.3d 283, 343 (3d Cir. 1998)). Moreover, a judge is required to disqualify himself when "he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding." 28 U.S.C.§455(b)(1). Bias and prejudice "connote a favorable or unfavorable disposition or opinion that is somehow wrongful or inappropriate, either because it is undeserved, or because it rests upon knowledge that the subject ought not to possess . . . or because it is excessive in degree." *Liteky v. United States*, 510 U.S. 540, 550 (1994).

"Under our precedents there are objective standards that require recusal when "the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable. *Withrow v. Larkin*, 421 U. S. 35, 47 (1975). Applying those precedents, we find that, in all the circumstances of this case, due process

requires recusal." (***Caperton v. A. T. Massey Coal Co., Inc.***, 129 S.Ct. 2252, 173 L.Ed.2d 1208 (U.S. 06/08/2009).)

As required by 28 U.S.C.§144, the Petitioner provided an Affidavit of Prejudice.[57] It contains factual details of the prejudice.

> "The probability of actual bias on the part of the judge . . . is too high to be constitutionally tolerable;" (***Berger v. United States***, 255 U.S. 22, (1921), 41 S.Ct. 230, 65 L.Ed. 481 1921)

If a clerk goes out into public and asks 100 people whether a judge who called someone evil and mentally and financially incapable might be impartial if that person later appeared as a party in his court, the result will be overwhelming that the impartiality must be questioned. The Petitioner has done so and knows.

SCURRILOUS is defined as EVIL; using or given to coarse language; vulgar. IRRESPONSIBLE is defined in legal terms as NOT MENTALLY OR FINANCIALLY FIT TO ASSUME RESPONSIBILITY.[58]

SO, JUDGE DUFFEY BRANDED THE PETITIONER AS EVIL and NOT MENTALLY OR FINANCIALLY FIT TO ASSUME RESPONSIBILITY *before* MIST-2 was assigned to

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[57] Pet.App.35-113.

[58] Pet.App.179--M-Aff #1,¶¶75-76.

him, and he had it published it on the Internet for all to see.[59]

Judge Duffey made this statement after allegedly reading facts in affidavits presented by the Petitioner. There was no affidavit from Maid, Judge Evans, or from anyone on behalf of Judge Evans, and there were absolutely no facts for Judge Evans before Judge Duffey 52 days before MIST-2 was filed and assigned to Judge Duffey. Judge Duffey completely ignored the facts.[60]

Judge Duffey has demonstrated to the Petitioner that he has a deep-seated personal bias and antagonism against the Petitioner and anyone who would have the audacity to sue a federal judge. The Petitioner provided proof of perjury and obstruction of justice by Judge Evans. Proof is detailed in Dec #25 – MIST-1_Doc.462. The "charges" are detailed in the Verified Action [MIST-2_Doc.1]. The Petitioner's claims have not been controverted by Judge Evans, and it will be impossible for her to do so because the Petitioner has the PROOF.[61]

Judge Duffey has demonstrated pervasive bias throughout the short proceeding in MIST-2; he has not demonstrated the impartiality required of a judge. The orders issued by Judge Duffey and his comments at the TRO Hearing show this. Taken alone, the orders would not be sufficient to

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[59] Pet.App.179,¶77.
[60] Pet.App.179--M-Aff #1,¶78.
[61] Pet.App.179--M-Aff #1,¶79.

demonstrate bias, but when you start with a "scurrilous and irresponsible" mindset, hear how antagonistic Judge Duffey was at the TRO Hearing, and see how he became an advocate for the Defendants, the pervasive bias is clear.[62]

Judge Duffey's void of impartiality in this matter has already prejudiced the case against the Petitioner. Judge Duffey has made biased rulings. Judge Duffey is not allowing motions to be filed or considered properly. Judge Duffey has "enacted" changes to FRCP rules that disadvantage the Petitioner. Judge Duffey established deadlines that seriously compromised the Petitioner.[63]

IV. THERE IS EXTRAJUDICAL BIAS IN THIS CASE, BUT THE LOWER COURTS WERE WRONG TO RULE THAT THERE WAS NONE AND THAT EXTRAJUDICIAL BIAS WAS REQUIRED.

The cases cited by the Eleventh Circuit to support its order denying Mandamus are ***Liteky v. United States***, ***Loranger v. Stierheim***, and ***United States v. Chandler***. These cases do not justify the ruling of the Eleventh Circuit.

The Eleventh Circuit claims *Liteky* says bias must come from an extra-judicial source.

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[62] Pet.App.180--M-Aff #1,¶82.
[63] Pet.App.184--M-Aff #1,¶100.

BUT, ***Liteky v. US*** actually says that the source of the impartiality of the court need not necessarily stem from an extra-judicial source:

> "It is wrong in theory...to suggest, as many opinions have, that 'extrajudicial source' is the only basis for establishing disqualifying bias or prejudice. It is the only common basis, but not the exclusive one, since it is not the exclusive reason a predisposition can be wrongful or inappropriate. A favorable or unfavorable predisposition can also deserve to be characterized as 'bias' or 'prejudice' because, even though it springs from the facts adduced or the events occurring at trial, it is so extreme as to display clear inability to render fair judgment. ***Liteky v. United States***, 510 U.S. 540, 554-55, 114 S.Ct. 1147, 1157, 127 L.Ed.2d 474 (1994).
>
> "The fact that an opinion held by a judge derives from a source outside judicial proceedings is not a necessary condition for 'bias or prejudice' recusal...." (***Liteky***, at 554.) Indeed, ***Liteky*** noted approvingly the Court's earlier ruling in ***Berger v. United States***, supra, requiring recusal on the basis of judicial remarks made in a prior proceeding. ***Liteky v. United States***, supra.)

Loranger v. Stierheim, 10 F.3d 776, 780 (11th Cir. 1994) makes no specific pronouncement that bias must be extrajudicial. It uses the term "generally" and ordinarily."

> "Generally, a judge's rulings in a case are not valid grounds for recusal." ***Loranger***, 10 F.3d at 780.

In ***Loranger***, the complaints about the trial judge were complaints about the judge's timeliness and rulings. This is not anywhere near the level of scurrilous and irresponsible.

The Eleventh Circuit also relied on ***United States v. Chandler***:

> "Likewise, a judge's rulings in a related case may not ordinarily serve as the basis for recusal." ***United States v. Chandler***, 996 F.2d 1073, 1104 (11th Cir. 1993).

United States v. Chandler is really off base. Compare the words of the judge in ***United States v. Chandler*** to the words of Judge Duffey:

> DISTRICT COURT JUDGE IN ***CHANDLER***: "...based on the evidence the court has heard during the trial of [Chandler's] co-defendants, this court is satisfied that the government has properly exercised prosecutorial discretion in not also seeking the death penalty for [Jarrell]. Jarrell was an alcoholic lackey for Chandler who for $500, or maybe simply a fifth of liquor, likely would have done anything Chandler directed him to do."
>
> JUDGE DUFFEY IN ***WINDSOR V. UNITED STATES***: Windsor is scurrilous and irresponsible.

DISTRICT COURT JUDGE IN *CHANDLER*: Comment made at the conclusion of a trial.

JUDGE DUFFEY IN *WINDSOR V. UNITED STATES*: Comment made before Judge Duffey met Windsor or any of the parties and after reading sworn affidavits from Windsor with no other evidence in the record before the court.

Chandler was actually quoting from ***McWhorter v. City of Birmingham***, 906 F.2d 674, 678 (11th Cir. 1990).

McWhorter was decided by the Eleventh Circuit in 1990. ***Liteky*** was decided by the Supreme Court in 1994.

Chandler does not apply, yet the Eleventh Circuit falsely claimed that it does:

> "Here, Windsor has not shown bias stemming from an extra-judicial source. Rather, his claims of bias and prejudice are based on adverse rulings made by the district court in a related case, which are not valid grounds for recusal. ***Chandler***, 996 F.2d at 1104." [64]

The Petitioner provided detailed arguments and case law in his filings with the District Court and the Eleventh Circuit.

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[64] Pet.App.7.

Judge Duffey and the Eleventh Circuit erroneously ignored this Court's position on extra-judicial bias. The distinction of whether actions or comments are categorized as "extra-judicial" is not the determining factor as lower courts continually claim.

Action, Accountability, and the Judiciary -- United States Federal Judicial Recusal Reform In a New Century by Brian Downing (2001) discusses the "extra-judicial" concept and explains that it was a mistake.

Liteky explained what this Court intended as far as bias, but the decisions of the lower courts seem to indicate that the courts haven't gotten the message. (*Liteky v. U.S.*, 510 U.S. 540, 114 S.Ct. 1147, 127 L.Ed.2d 474 (U.S. 03/07/1994).) *Liteky*:

> "The fact that an opinion held by a judge derives from a source outside judicial proceedings is not a necessary condition for "bias or prejudice" recusal."
>
> "...neither the presence of an extra-judicial source necessarily establishes bias, nor the absence of an extra-judicial source necessarily precludes bias...."
>
> "...opinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a

deep-seated favoritism or antagonism that would make fair judgment impossible."

"...there is no per se rule requiring that the alleged partiality arise from an extra-judicial source." [emphasis added.]

"Grinnell, therefore, provides a less than satisfactory rationale for reading the extra-judicial source doctrine into§144 or the disqualification statutes at issue here. It should come as little surprise, then, that the Court does not enlist Grinnell to support its adoption of the doctrine."

"...prejudiced opinions based upon matters disclosed at trial may rise to the level where recusal is required."

"From this, the Court is correct to conclude that an allegation concerning some extra-judicial matter is neither a necessary nor a sufficient condition for disqualification under any of the recusal statutes."

"A judge may find it difficult to put aside views formed during some earlier proceeding. In that instance we would expect the judge to heed the judicial oath and step down...."

"In matters of ethics, appearance and reality often converge as one. See ***Offutt v. United States***, 348 U.S. 11, 14, 99 L. Ed. 11, 75 S. Ct. 11 (1954) ("Justice must satisfy the appearance of justice"); ***Ex parte McCarthy***,

[1924] 1 KB 256, 259 (1923) ("Justice should not only be done, but should manifestly and undoubtedly be seen to be done"). I do not see how the appearance of fairness and neutrality can obtain if the bare possibility of a fair hearing is all that the law requires. Cf. ***Marshall v. Jerrico, Inc.***,446 U.S. 238, 242, 64 L. Ed. 2d 182, 100 S. Ct. 1610 (1980) (noting the importance of "preserving both the appearance and reality of fairness," which " 'generates the feeling, so important to a popular government, that justice has been done' ") (quoting ***Joint Anti-Fascist Refugee Comm. v. McGrath***,341 U.S. 123, 172, 95 L. Ed. 817, 71 S. Ct. 624 (1951) (Frankfurter, J., concurring))."

"Although the source of an alleged disqualification may be relevant in determining whether there is a reasonable appearance of impartiality, that determination can be explained in a straightforward manner without resort to a nearly dispositive extra-judicial source factor. I would apply the statute as written to all charges of partiality, extra-judicial or otherwise, secure in my view that district and appellate judges possess the wisdom and good sense to distinguish substantial from insufficient allegations and that our rules, as so interpreted, are sufficient to correct the occasional departure."

Judge Duffey established his malice and bias for the Petitioner in an earlier proceeding. This

qualified as extrajudicial bias, but bias is bias, and when a party does not have an impartial judge, his Constitutional rights have been violated. The District Court and the Eleventh Circuit erred when they ruled that extra-judicial bias was required.

V. THE RULINGS OF THE ELEVENTH CIRCUIT (AND OTHER CIRCUITS) ON EXTRAJUDICIAL BIAS ARE IN CONFLICT WITH A DECISION OF THE SUPREME COURT.

The Supreme Court expressed in 1994 that the source of impartiality by a judge need not necessarily stem from an extrajudicial source.

> "It is wrong in theory...to suggest, as many opinions have, that 'extrajudicial source' is the only basis for establishing disqualifying bias or prejudice. It is the only common basis, but not the exclusive one, since it is not the exclusive reason a predisposition can be wrongful or inappropriate. A favorable or unfavorable predisposition can also deserve to be characterized as 'bias' or 'prejudice' because, even though it springs from the facts adduced or the events occurring at trial, it is so extreme as to display clear inability to render fair judgment. (***Liteky v US***, supra.)

Despite the Supreme Court ruling in ***Liteky*** in 1994, lower courts continue to erroneously require extrajudicial bias.

District Courts within the 2nd Circuit continue to erroneously cite ***United States v. Grinnell Corp.***, 384 U.S. 563, 583, 86 S.Ct. 1698, 16 L.Ed.2d 778 (1966) requiring extrajudicial bias. (***United States v. Carlton***, No. 07-2344-cr (2d Cir. 07/16/2008).)

District courts within the 3rd Circuit continue to rule "To warrant recusal under§144, the motion and affidavit must allege a factual basis for a finding of extrajudicial bias. (***Navastar Financial Corp. v. Pinnacle Truck Sales & Corp.***, 4:03-CV-2089. (M.D.Pa. 05/20/2005).) District Courts within the 3rd Circuit continue to erroneously cite ***United States v. Grinnell Corp.***, supra. (***U.S. v. Enigwe***, 155 F.Supp.2d 365 (E.D.Pa. 06/08/2001).)

The 4th Circuit continues to cite a 1987 case requiring extrajudicial bias -- ***In re Beard***, 811 F.2d 818, 826-27 (4th Cir. 1987). (***Assa'ad-Faltas v. President of the University of South Carolina***, No. 07-1949 (4th Cir. 08/21/2008); ***In re Barefoot***, 325 Fed.Appx. 255 (4th Cir. 05/28/2009); ***In re O"Hara***, 77 F.3d 470 (4th Cir. 02/28/1996); ***In re Bast***, 91 F.3d 128 (4th Cir. 07/11/1996); ***In re Debrew***, 97 F.3d 1446 (4th Cir. 10/01/1996).) And a 1984 case -- ***Shaw v. Martin***,733 F.2d 304, 308 (4th Cir.), cert. denied, 469 U.S. 873, 83 L. Ed. 2d 159, 105 S. Ct. 230 (1984). (***Hause v. Witkowski***, 98 F.3d 1334 (4th Cir. 10/16/1996).) See also ***In re Vincent***, 68 F.3d 463 (4th Cir. 10/13/1995).

The 5th Circuit continues to require extrajudicial bias. "Motions brought under §144 and 28 U.S.C.§455 are substantively similar and both

require recusal only for "personal, extra-judicial bias." (***United States v. MMR Corp.***, 954 F.2d 1040, at 1045-1046 (5th Cir. 1992). (***United States v. Gonzalez***, No. 08-20333 (5th Cir. 09/17/2009).) District Courts within the 5th Circuit continue to erroneously cite ***United States v. Grinnell Corp.***, supra. (***Crawford v. United States Dep't of Homeland Security***, No. 06-11163 (5th Cir. 08/16/2007); ***Miller v. Barnhart***, 211 Fed.Appx. 303 (5th Cir. 12/27/2006).)

The 6th Circuit continues to require extrajudicial bias. ***United States v. Jamieson***, 427 F.3d 394, 405 (6th Cir. 2005). (***Creusere v. Weaver***, No. 07-5859 (6th Cir. 01/26/2009); ***Youn v. Track, Inc.***, No. 2003 Fed App. 0087P (6th Cir. 03/24/2003).) See also ***Reed v. Rhodes***, 179 F.3d 453, 468 (6th Cir. 1999) and ***EBI-Detroit, Inc. v. City of Detroit***, No. 07-1391 (6th Cir. 05/22/2008).) District Courts within the 6th Circuit continue to erroneously cite ***United States v. Grinnell Corp.***, supra. (***Taylor Acquisitions, L.L.C. v. City of Taylor***, 313 Fed.Appx. 826 (6th Cir. 02/19/2009).)

The 9th Circuit continues to require extrajudicial bias. (***United States v. Weaver***, 97 F.3d 1463 (9th Cir. 09/13/1996); **Oltarzewski v. Martinez**, 50 F.3d 17 (9th Cir. 03/03/1995).) District Courts within the 9th Circuit continue to erroneously cite ***United States v. Grinnell Corp.***, supra. (***In re Thomason***, No. ID-09-1000-MoDH (9th Cir. 06/26/2009); ***In re Michaels***, No. CC-08-1078-PaDMo (9th Cir. 02/27/2009); ***In re Keahey***, No. WW-08-1151-PaJuKa (9th Cir. 11/03/2008).) But the 9th

Circuit has gotten it right some of the time. (***United States v. Bogard***, 51 F.3d 282 (9th Cir. 03/22/1995).)

The 11th Circuit has a difficult time understanding that this Court does not require extrajudicial bias. (***Dinkins v. Leavitt***, No. 08-10911 (11th Cir. 11/05/2008); ***Gilbert v. United States Dep't of Justice***, No. 07-10488 (11th Cir. 10/18/2007); ***In re Windsor***, No. 09-14018-A (11th Cir. 9/17/2009.)

Since a judge's fate usually resides in his or her own hands, the need for a strong statement from this Court is especially important. It seems that this Court needs to make it clear to the lower courts that extrajudicial bias is not a requirement for recusal.

Bias is bias. Discrimination has no boundaries. If one discriminates against a person of another race, color, creed, age, or gender, it doesn't matter what caused it. It's the bias that is wrong.

It makes no sense for judges to be allowed to be biased as long as the bias is restricted to their courtroom...the one place that bias is not supposed to exist.

VI. THE DECISIONS OF THE LOWER COURTS VIOLATE THE PETITIONER'S BASIC CONSTITUTIONAL RIGHTS.

The Eleventh Circuit's claim that there was no indication of bias in the underlying action obliterated the Petitioner's Constitutional rights.

> "As said by the Supreme Court in ***Berger v. United States***, supra,"* * * the tribunals of the county shall not only be impartial in the controversies submitted to them but shall give assurance that they are impartial, free, to use the words of the section, from any `bias or prejudice' that might disturb the normal course of impartial judgment." In ***In re Murchison***, supra, 349 U.S. 133, 136, 75 S.Ct. 623, 625, 99 L.Ed. 942, the Supreme Court said "Fairness of course requires an absence of actual bias in the trial of cases. But our system of law has always endeavored to prevent even the probability of unfairness."
>
> One of the fundamental rights of a litigant under our judicial system is that he is entitled to a fair trial in a fair tribunal, and that fairness requires an absence of actual bias or prejudice in the trial of the case. (***In re Murchison***, supra.) If this basic principle is violated, the judgment must be reversed. (***In re Murchison***, supra; ***Berger v. United States***, supra.)

Because Judge Duffey was prejudiced for his fellow judge, this meant that the Petitioner had to be wrong. Not just wrong, but evil and financially and mentally incapably wrong: "Scurrilous and irresponsible."

The Petitioner imagines that Judge Duffey would have said the same thing defending Alcee Hastings, John Pickering, Samuel Chase, West Hughes Humphrey, Mark W. Delahay, Charles

Swain, Robert W. Archibald, George W. English, Harold Louderback, Halsted L. Ritter, Harry Claiborne, Walter Nixon, and Samuel B. Kent.

When the Petitioner had the misfortune of landing in Judge Duffey's court due to an unfair system that inflicts the same judge again and again on pro se parties, Judge Duffey's bias never missed a beat. He used his position to shield his neighbor from answering the ethical, legal, and criminal charges made against her by falsely claiming he could be impartial with the Petitioner.

VII. THIS CASE PRESENTS AN ISSUE OF VITAL IMPORTANCE TO ALL CITIZENS.

The Constitution guarantees citizens a fair and impartial judge. These are nice words, but this is not the reality experienced by the Petitioner.

Every person "has a constitutional and statutory right to an impartial and fair judge at all stages of the proceeding." (*Liteky v. U.S.*, 510 US 540 (1994).

Unless this Court clarifies what constitutes bias in a recusal situation, the courts will continue to deprive some citizens of their rights.

Relatively few denials of motions for recusal are appealed because attorneys are unwilling to risk their careers by taking action against judges. This makes clarification by this Court even more important. The Petitioner is filing this Petition pro se because he was unable to find an attorney in

Atlanta who was willing to file a civil action against a federal judge. Every attorney contacted feared reprisals.

This is a very important issue of the most basic of Constitutional rights.

VIII. THIS WRIT WILL BE IN AID OF THE COURT'S APPELLATE JURISDICTION, AND THERE ARE EXCEPTIONAL CIRCUMSTANCES THAT WARRANT THE EXERCISE OF THE COURT'S DISCRETIONARY POWERS. ADEQUATE RELIEF CANNOT BE OBTAINED FROM ANY OTHER COURT.

Windsor filed motions for recusal in the District Court. (Pet.App. 116.) Judge Duffey denied them and did not allow the Clerk of the Court to file the latest one that Windsor presented. Judge Duffey is hopelessly biased against Windsor, and no relief is available from him.

Windsor filed a petition for writ of mandamus to disqualify Judge Duffey with the Eleventh Circuit, and they claimed there was nothing wrong with Judge Duffey calling Windsor "scurrilous and irresponsible" in a previous civil action. (Pet.App Volume 3.) They also falsely claimed that a judge's participation in a prior action is not "extra-judicial" and that a judge's bias for a friend is not "extra-judicial." Windsor has found that the judges of the Eleventh Circuit who have handled his actions have routinely ignored the facts and the law to shield Judge Evans and Judge Duffey from indictment and

impeachment. So, relief cannot be obtained from the Eleventh Circuit.

Windsor is pro se, and he is interpreting ***Marbury v. Madison***, 1 Cranch 137, 175 when it says "it must be shown to be an exercise of appellate jurisdiction" to mean that Windsor must show that this is in essence an appeal. Windsor believes it qualifies as he attempted to have Judge Duffey disqualified at both the District Court and Eleventh Circuit. Windsor has further read that the recusal of a judge can only be handled through mandamus.

Windsor respectfully submits that there is nothing that qualifies as "exceptional circumstances" more than a biased, corrupt federal judge.

Windsor is attempting to avoid financial and personal devastation by stopping these judges from forcing him to file bankruptcy.

CONCLUSION

Under the circumstances, disqualification is the only remedy that will promote the public's faith in the integrity and fairness of the federal judicial system, prompt other judges to handle motions for recusal properly, restore impartiality to the parties in the judicial process, and secure the relief that the Petitioner deserves.

For all of the above reasons, the Petitioner now respectfully prays that this Court grant a Writ of Mandamus to order the lower courts to disqualify Judge Duffey from presiding in any matters involving the Petitioner. Judge Duffey is currently presiding in Civil Actions 1:09-CV-02027-WSD and 1:09-CV-01543-WSD. All orders should be set aside. This Court should make it clear that judges may not call parties evil and then claim to be impartial. This Court should make it clear to lower courts that extrajudicial bias is not required in recusal; the perception of reasonable people of the appearance of bias necessitates recusal if there is any chance that the party will not receive a fair trial.

If possible, all cases involving Windsor should be transferred to another circuit where the judges will not be friends of Judge Evans or Judge Duffey. It is especially difficult to be impartial when it involves a long-time friend, neighbor, and co-worker. Windsor has filed motions requesting intercircuit transfers, but these have thus far been ignored. Windsor will be submitting a separate Petition for Writ of Mandamus to Disqualify Judge Evans.

FINAL NOTE FROM THE PETITIONER

May it please the Court.

How in the world do I as a pro se party get the attention of the United States Supreme Court? How can words on a page convince you that I am the one telling the truth, and the judges are among those telling lies? All I can say is that every word I have sworn to is the truth, the whole truth, and nothing but the truth. I have sworn to everything under penalty of perjury. If an impartial judge will grant an evidentiary hearing, I am absolutely confident that I can prove everything to the satisfaction of the judge. I have been trying to get an evidentiary hearing for four years!

I have been completely unsuccessful in efforts to get ANYONE to care about the truth. Not the judges, the U.S. Attorney, the FBI, or Congress. (See Pet.App.77-85.)

In 2009, I wrote to the Presiding Judges of the Northern District of Georgia and the Eleventh Circuit asking for a conference of some type, and I was ignored. I filed a Motion for Judicial Intervention asking these judges, the Supreme Court, and the House and Senate Judiciary Committees to do something, but only the Supreme Court replied to say that it was unable to consider a letter and motion in a district court.

I sent detailed information to the FBI, the District Attorney, and the United States Attorney.

The District Attorney referred me to the FBI. The FBI said $1,000,000 was not a big enough deal for them to get involved. The United States Attorney simply ignored it.

I have now written to every member of the House and Senate Judiciary Committees, and only Senator Arlen Specter replied by referring the letter to the two senators from Georgia. Their only response was that impeachment is a House matter.

After learning that there is no civil lawsuit allowed for perjury, and after none of the authorities responded, I filed the underlying lawsuit against Judge Evans, Maid, and their attorneys under Rule 60(d) for fraud upon the court and RICO with perjury as one of the predicate acts cited. In the Verified Action in MIST-2, I detailed thousands of false statements, identified hundreds of violations of criminal statutes (predicate acts for RICO), and referenced all of the proof about which I have sworn under penalty of perjury before a notary.

I had high hopes that another judge would finally step in and end this nightmare. Instead, Judge Evans' next-door neighbor was assigned the case after he shielded her from a deposition two months before. Judge Duffey immediately began working for Judge Evans and against me.

And then the Eleventh Circuit has joined the act.

I have experienced legal and judicial abuse on steroids. Thus far, this is a case that indicates that

it can be absolutely impossible to find justice in the judicial system in America.

but Judge Evans did lie and made as many as 200 false statements in orders, and she has obstructed justice. She did it all intentionally. Her rulings were not based upon the facts or the law. I believe Judge Duffey and the judges of the Eleventh Circuit are covering up for her. I have no doubt that I can prove all of this to a jury.

As hard as it may be for fellow federal judges to accept that a peer has committed serious judicial misconduct, I pray that personal feelings and doubt can be put aside to review the evidence because there has been a grave miscarriage of justice.

In accordance with 28 U.S.C.§1746, I declare under penalty of perjury that the foregoing is true and correct based upon my personal knowledge, except as to the matters herein stated to be alleged on information and belief, and that as to those matters I believe them to be true.

Respectfully submitted this 3 day of ~~October~~ NOVEMBER, 2010,

William M. Windsor
Pro Se

Supreme Court, U.S.
FILED

10-632 OCT 15 2010

OFFICE OF THE CLERK

No.

In The
Supreme Court of the United States

WILLIAM M. WINDSOR,

Petitioner

v.

UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY, ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS. AND DOES 1 TO 100,

Respondents

On Petition for Writ of Mandamus
To The United States Court of Appeals for
The Eleventh Circuit

PETITION FOR WRIT OF MANDAMUS
APPENDIX – VOLUME 1

William M. Windsor
Pro Se
3924 Lower Roswell Rd
Marietta, GA 30068
770-578-1094

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[1] The exhibits to the affidavits provided herein have not been included in this Appendix due to the volume. If this Court wants to see the exhibits, the Petitioner can easily provide them.

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION NO.
	:	1:09-02027-WSD
	:	
UNITED STATES OF AMERICA, et al.,	:	
	:	
Defendants.	:	

ORDER

On October 26, 2009, William M. Windsor filed a Request for Specific Approval to File Notice of Intent to Appeal to the United States Supreme Court [73-2]. That request is GRANTED. Windsor may file the documents he appended as Exhibits A and B to his request.

IT IS SO ORDERED, this 2nd day of November, 2009.

s/_____
WILLIAM S. DUFFEY, JR
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-14018-A

Dist. Ct. Docket No. 09-02027-WSD-1

IN RE:

William M. Windsor.

Petitioner.

On Petition for Writ of Mandamus to the
United States District Court for the
Northern District of Georgia

BEFORE: TJOFLAT and PRYOR, Circuit Judges.

BY THE COURT:

William M. Windsor, proceeding pro se, filed this mandamus petition, asking this Court to order the recusal of the district judge in Windsor's independent action for relief from the judgment in a prior case in which Windsor was a co-defendant. Mandamus is available "only in drastic situations,

when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion." See Jackson v. Motel 6 Multipurpose, Inc. 130 F.3d. 999, 1004 (11th Cir. 1997); In re Lopez-Lukis, 113 F.3d. 1187, 1187-88 (11th Cir. 1997). The petitioner has the burden of showing that the claimed right to issuance of the write is clear and indisputable. Lopez-Lukis, 113 F.3d at 1188.

Recusal of a district court judge is required under 28 U.S.C. § 144 when a party demonstrates that the judge "has a personal bias or prejudice" against him or in favor of an adverse party. A judge must "disqualify himself in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). Matters arising out of the course of judicial proceedings, however, are not a proper basis for recusal. Disqualification under 455(a) is required only when the alleged bias is personal in nature, that is, stemming from an extra-judicial source. Liteky v. United States, 510 U.S. 540, 554-55, 114 S.Ct. 1147, 1157, 127 L.Ed.2d 474 (1994); Loranger v. Stierheim, 10 F.3d 776, 780 (11th Cir. 1994). Generally, a judge's rulings in a case are not valid grounds for recusal. Loranger, 10 F.3d at 780. "Likewise, a judge's rulings in a related case may not ordinarily serve as the basis for recusal." United States v. Chandler, 996 F.2d 1073, 1104 (11th Cir. 1993) (emphasis added). In rare cases, recusal may be required when "such pervasive bias and prejudice in shown by otherwise judicial conduct as would constitute bias against a party." Loranger, 10 F.3d at 780 (quotation omitted).

Here, Windsor has not shown bias stemming from an extra-judicial source. Rather, his claims of bias and prejudice are based on adverse rulings made by the district court in a related case, which are not valid grounds for recusal. Chandler, 996 F.2d at 1104. Moreover, the judge's finding in the related case that Windsor made "scurrilous and irresponsible" accusations against another district judge in support of a subpoena Windsor served upon the judge does not show extrajudicial or pervasive bias as to warrant recusal. Accordingly, this mandamus petition is **DENIED**.

FILED
U.S.COURT OF APPEALS
ELEVENTH CIRCUIT

SEP 17 2009

THOMAS K. KAHN
CLERK

IN THE UNITED STATES DISTRICT COURT
IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION NO.
	:	1:09-02027-WSD
	:	
UNITED STATES OF AMERICA, et al.,	:	
	:	
	:	
Defendants.	:	

ORDER

William M. Windsor is proceeding pro se in three separate federal lawsuits. Just one day after filing a complaint [1] initiating this case - the third of those lawsuits - Windsor filed a Motion to Recuse Judge William S. Duffey [17]. When Windsor's first recusal motion was denied [22], he filed an Emergency Motion to Recuse Judge William S. Duffey [36]. When Windsor's second recusal motion was orally denied [58], he moved for reconsideration. This Court invited further briefing and has now considered the opposition filed by the United States and Judge Orinda D. Evans [62] and Windsor's reply [63]. This Opinion and Order supplements the Court's oral order denying Windsor's second recusal motion.

In the three federal lawsuits in which Windsor is proceeding pro se, Windsor has filed thousands of pages of material. To provide context, the following brief background is drawn from an earlier Order in this case.

> In this case, Windsor is collaterally attacking orders entered in Maid of the Mist Corp. v. Alcatraz Media, LLC, 1 :06-CV-714-ODE (N.D. Ga. filed Mar. 28, 2006) ("Maid of the Mist I") . . . . In August 2007, Windsor and his fellow defendants lost Maid of the Mist I. Summary judgment and a permanent injunction were entered against Windsor and his co-defendants in Maid of the Mist I, and they were ordered to pay the plaintiffs' attorneys' fees and expenses [because of their "stubbornly litigious actions" [Maid of the Mist I 251 at 43]].
>
> In September 2008, the United States Court of Appeals for the Eleventh Circuit affirmed the grant of summary judgment and entry of the permanent injunction [against Windsor and his codefendants]. See Maid of the Mist Corp. v. Alcatraz Media, LLC, 294 F. App'x 463 (11th Cir. 2008). The Eleventh Circuit remanded the case only so that the district court (Evans, J.) might more fully explain how the amount of the award of attorneys' fees and expenses was determined. Id. Following remand, the attorneys for all parties (including Windsor) negotiated and signed a Consent Final Order and

Judgment [Maid of the Mist I 354]. In December 2008, the Court (Evans, J.) entered that Consent Final Order, and the defendants then paid the plaintiffs the negotiated sum of $395,000 in attorneys' fees and expenses. The Consent Final Order provided that: "The case is hereby closed all issues having been decided . . . No appeals shall be taken from this Judgment, and the parties waive all rights to appeal" [Id. at 4].

Less than six months later, in April 2009, Windsor "request[ed]" that his attorney be "removed as his Counsel of Record" [Maid of the Mist I 360 at 1]. Proceeding pro se, Windsor - but none of the other defendants - collaterally attacked the Consent Final Order. Since the entry of the Consent Final Order in Maid of the Mist I, Windsor appears to have filed more than two dozen motions (and hundreds, if not thousands) of additional pages of material, including motions to "reopen" Maid of the Mist I, take discovery from the plaintiffs, recover sanctions, disqualify opposing counsel, and disqualify Judge Evans.

In the course of his collateral attack, Windsor served a deposition subpoena on Judge Evans. Maid of the Mist Corp. v. Alcatraz Media, LLC, 1 :09-CV-1543-WSD (N.D. Ga. filed June 10, 2009) ("Maid of the Mist II") was [opened] when Judge Evans moved to quash Windsor's deposition subpoena in Maid of the Mist I. In June 2009,

> this Court (Duffey, J.) stayed and then quashed that deposition subpoena [Maid of the Mist II 4 & 32]. Windsor responded by filing multiple motions in Maid of the Mist II (again totaling hundreds, if not thousands, of pages), including motions for disqualification of this Court [Duffey, J.], change of venue, and reconsideration.
>
> Then, in July 2009, Windsor filed a 499-page complaint initiating this case and opening a third front in his collateral assault on the Consent Final Order in Maid of the Mist I. In this case, Windsor has sued the United States of America, Judge Evans, the plaintiffs in Maid of the Mist I, certain of their employees, and their attorneys. Again, Windsor filed a small avalanche of motions, totaling hundreds, if not thousands, of pages.

[32 at 1-3]. After Windsor's first motion to recuse [17] in this case was denied [22], Windsor filed an interlocutory appeal [37] and a petition for mandamus with the United States Court of Appeals for the Eleventh Circuit demanding recusal of this Court. Last week, the Eleventh Circuit sua sponte dismissed Windsor's appeal [66] and denied Windsor's petition for mandamus [68]. Although those decisions ought to put to rest fully the issue of recusal, the Court is entering this Opinion and Order supplementing the oral order denying Windsor's second recusal motion for the sake of completeness.

The principal difference between Windsor's second motion for recusal and his first is that he belatedly added an argument that 28 U .S .C. § 144 warrants recusal in this case. Compare 17 at 1-2] with [36-2 at 21-22]. Assuming without deciding that it is proper for Windsor to change the basis on which he demanded recusal after his first motion was heard and denied, Windsor's new argument under 28 U.S.C. § 144 fails for two reasons. First, Windsor did not attach the statutorily required certificate of good faith from counsel of record. And second - accepting as true the properly pleaded facts in Windsor's § 144 affidavit - he failed to allege sufficient grounds for recusal.

28 U.S .C. § 144 req uires a district judge to recuse himself and "proceed no further" when a party files both (1) "a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party" and (2) "a certificate of counsel of record stating that it is made in good faith." 28 U.S.C. § 144. [Footnote 1: In addition, "a party may file only one such affidavit in any case ." 28 U.S.C. § 144.] The potential for abuse of a statute requiring nearly automatic recusal is obvious, and each of those two statutory requirements safeguards against the abusive use of motions to recuse under § 144 as an improper litigation tactic.

The only certificate of good faith that Windsor submitted is one that he himself signed. Indeed, Windsor acknowledges that every attorney he contacted or attempted to contact to review his motion to recuse and attest to his good faith was

"either unwilling . . ., [unable], or . . .unavailable" to do so [36-2 Mot. at ¶ 23]. Unfortunately for Windsor, failure to include a certificate of good faith signed by counsel of record is "fatal" to a § 144 motion filed by a pro se litigant. Everson v. Liberty Mut. Assur. Co., Civ. No. 1:05-CV-2459-RWS, 2008 U.S. Dist. LEXIS 30244 at *4 (N.D. Ga. Apr. 14, 2008) (collecting cases); see also, e.g., Morrison v. United States, 432 F.2d 1227, 1229 (5th Cir. 1970) ("The requirement of the certificate by counsel is to prevent abuse."). [Footnote 2: In Bonner v. City of Prichard, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the United States Court of Appeals for the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.]

Windsor seeks a waiver of that statutory requirement because he is proceeding pro se. The law in this district and circuit, however, is clear. The requirement that a party file a certificate of good faith signed by counsel of record serves a critical function in preventing the tactical abuse of § 144 by litigants. Id. In every federal case that he has litigated pro se, Windsor has filed motions to recuse or disqualify the presiding judge, sometimes as many as three in the same case. [Maid of the Mist I 361, 406 & 470; Maid of the Mist II 17; and 17 & 36]. Indeed, in this case, the Court has already reviewed and denied an earlier motion filed by Windsor seeking recusal under 28 U.S.C. § 455, which did not require submission of a certificate of good faith signed by counsel. One district judge has already recused himself from an earlier case involving Windsor [Maid of the Mist 18]. And Windsor now

says that he "consider[s] every federal judge in Atlanta to be part of [a] ring of corruption" [69-13 at ¶ 3192]. Absent the statutorily required certificate of good faith from counsel of record, Windsor's second motion for recusal must be denied. 28 U.S.C. § 144.

Windsor's second motion for recusal must also be denied because his affidavit is not "sufficient" to warrant recusal under 28 U .S.C. § 144. Rather than offer well-pleaded facts, Windsor's affidavit in support of his second motion for recusal is replete with conclusory statements of his personal opinion, including the following:

- "Judge Duffey was antagonistic and biased" [36-3 Aff . at ¶ 29];
- "He is hopelessly biased against me" [id. at ¶ 31];
- "My impression is that Judge Duffey is mean" [id. at ¶ 81];
- "Judge Duffey came off to me as angry at me. He kept his anger under check a lot of the time, but I quickly realized that it was always there" [id. at ¶ 85];
- "I most definitely feel that Judge Duffey has demonstrated a bias against me as a pro se litigant" [id. at ¶ 106];
- "Judge Duffey should have reported Maid's Attorneys [sic] and Judge Evans for professional misconduct . . . . His failure to do so is also proof of his extreme bias against me as werll [sic] as violations of the Code of Judicial Conduct [id. at ¶ 111];

- **"I have not been treated fairly by Judge Duffey"** [id. at ¶ 313 (emphasis in original)];
- "So, the ultimate proof of extreme bias and lack of impartiality by Judge Duffey is that he had all of this evidence available to him, and he slammed me anyway [id. at ¶ 172].

Windsor's "impression[s]" and "feelings]" appear to flow principally from an Order in Maid of the Mist II that described statements Windsor made relating to his attempt to depose Judge Orinda Evans after closure of Maid of the Mist I as "scurrilous and irresponsible." [Maid of the Mist II 32 at 5]. [Footnote 3: 3 Windsor defends his attempt to depose Judge Evans as follows: If denied the ability to depose Judge Evans, I will never know if Judge Evans was a customer or relative of Maid. I will never know if Judge Evans, a President Carter Democrat, drove by my home, saw George W. Bush and Saxby Chambliss signs in the yard and established extrajudicial bias against me. I will never know if Judge Evans established extrajudicial bias against me because I was in the U.S. Army during the Viet Nam years, or if the bias came because I was in the Army Reserves for six years. I will never know if Judge Evans has a bias against overweight men with grey beards, pro se parties, people in the ticket selling business, men accused of calling a woman a bitch, or young people who start and build businesses . The bias is clear. The problem is that I cannot prove extrajudicial bias unless I can depose her. [36-3 Aff. at 1 74].] Indeed, in his § 144 affidavit, Windsor returns to that three-word phrase over and over and over again [36-3 Aff.

at ¶¶ 24, 25, 126, 128, 129, 137, 138, 143, 307 & 316] . Characterizing the phrase as a "slur" that was "antagonistic and improper," Windsor writes: "I don't know of many words that are much worse that scurrilous" [Id. at ¶ 316]. [Footnote 4: In rebuttal, Windsor writes, in part: "I have never murdered anyone .. . . I have never smoked marijuana or used any drug of any type. I very rarely drink alcoholic beverages . . . . My wife and I love animals, have a cat that is like a third child, and we regularly donate to cat rescue organizations" [Id. at ¶¶132 & 134].

Windsor contends that "I am confident that a reasonable lay person would conclude that Judge Duffey does not have the impartiality that is required for this job just based upon his `scurrilous and irresponsible' assault on me" [Id. at 307 (emphasis added)]. [Footnote 5: Windsor's objectivity is subject to question. In his affidavit in support of his motion to recuse, Windsor wrote that he (1) has an "extreme sense of right and wrong" [36 Aff. at 135], (2) has spent "over 2,000" hours on this case [id. at ¶ 148], and (3) has "no job because [he has] to work full-time on the legal work" [id. at ¶ 181].] Windsor is wrong. "[J]udicial remarks during the course of [proceedings] that are critical or disapproving of, or even hostile to, [a party] ordinarily do not support a bias or partiality challenge ." Liteky v. United States, S 10 U.S. 540, 555 (1994). Comments on lack of evidence, rulings adverse to a party, and friction between the Court and a party do not constitute pervasive bias . Hamm v. Members of Bd. of Regents, 708 F .2d 647, 651 (11th Cir. 1983). Only where judicial remarks

"reveal such a high degree of favoritism or antagonism as to make fair judgment impossible" is recusal warranted. Liteky, 510 U.S. at 555.

In this case, this Court's "judicial remarks" plainly do not support a motion for recusal. In denying Windsor's petition for mandamus, the Eleventh Circuit held : "the judge's finding in the related case that Windsor made `scurrilous and irresponsible' accusations against another district court judge in support of a subpoena Windsor served upon that judge does not show extrajudicial or pervasive bias as to warrant recusal." In re William M. Windsor, No. 09-14018-A slip op. at 2 (11th Cir . Sep. 17, 2009).

Much of the rest of Windsor's § 144 affidavit is rambling and irrelevant to his motion for recusal. To the limited extent Windsor identifies factual bases in his affidavit in support of his contention that recusal is required, he complains about this Court's case management orders and adverse prior rulings in this case and Maid of the Mist II. However, "judicial rulings [and] routine trial administration efforts" are insufficient to require a judge's recusal . Liteky, 510 U.S. at 556; see also United States v. Chandler, 996 F.2d 1 073, 1104 (11th Cir. 1993) ("a judge's ruling in a related case may not ordinarily serve as the basis for recusal") (emphasis added). In denying Windsor's petition for mandamus, the Eleventh Circuit held: "Windsor has not shown bias stemming from an extra judicial source. Rather, his claims of bias and prejudice are based on adverse rulings made by the district court judge in a related case, which are not valid grounds for recusal." In re

William M Windsor, No. 09-14018-A slip op. at 2 (11th Cir. Sep. 17, 2009). In short, Windsor's affidavit is devoid of well-pleaded facts that would "convince a reasonable person that bias actually exists." Christo v. Padgett, 223 F .3d 1324, 1333 (11th Cir . 2000) (emphasis added).

Windsor's Emergency Motion to Recuse Judge William S. Duffey [36] - his second recusal motion in this case - is **DENIED** for the reasons given orally on the record on September 2, 2009, and for the reasons set forth in this Opinion and Order. Windsor's oral motion for reconsideration is also **DENIED**.

IT IS SO ORDERED, this 25th day of September, 2009.

s/_____
WILLIAM S. DUFFEY, JR
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	:	
	:	
Plaintiff	:	
	:	
v.	:	CIVIL ACTION NO.
	:	1:09-02027-WSD
	:	
UNITED STATES OF AMERICA, et al.,	:	
	:	
Defendants.	:	

OPINION AND ORDER

On July 27, 2009, William M. Windsor filed a 499-page complaint entitled "Verified Independent Action in Equity to Remedy Fraud Upon the Court, Independent Equitable Action for Relief from a Final Judgment, Complaint for Declaratory Judgment, Injunctive Relief, and Other Relief" [1]. Windsor also filed a number of other motions, incorporating by reference hundreds of pages of additional material. Windsor's Motion for Temporary Restraining Order and Interlocutory Injunction [11] will be heard on July 30, 2009. This matter is now before the Court on Windsor's: Motion to Approve Service of Process on Canadian Parties [3]; Motion for Waiver of Representation by Counsel and Motion to Allow Alcatraz Media, LLC and Alcatraz Media, Inc. to Assign All Rights in Civil Action No. 1:06-CV-714-

ODE [7]; Motion for Change of Venue [15]; and Motion to Recuse Judge William S. Duffey [17].

We deal first with Windsor's motion to recuse. The factual basis for that motion is Windsor's dissatisfaction with an order this Court entered in a related case in which Windsor was a defendant: *Maid of the Mist Corp. v. Alcatraz Media, LLC*, 1:09-CV-1543-WSD (N.D. Ga. filed June 10, 2009) ("*Maid of the Mist II*"). Windsor attached as "Exhibit A" to his motion for recusal in this case "an order signed by Judge Duffey against the Plaintiff" in *Maid of the Mist II*, and Windsor complains that: "Judge Duffey has a preconceived idea of this case from information that has come from outside the case" [17 at 2]. Windsor further complains that "Judge Duffey has previously called the Plaintiff 'scurrilous and irresponsible' when the Plaintiff was simply attempting to take the deposition of Judge [Orinda] Evans," *id.*, who presided over a third case in which Windsor was a party: *Maid of the Mist Corp. v. Alcatraz Media, LLC*, 1:06-CV-714-ODE (N.D. Ga. filed Mar. 28, 2006) ("*Maid of the Mist I*").

Windsor argues that recusal is required by 28 U.S.C. § 455 and the Code of Judicial Conduct for United States Judges [17 at 2]. [Footnote 1: Windsor also asserts that recusal is required under "Rules of the State Bar of Georgia Code of Professional Conduct, all other relevant statutory and state and federal case law, as well as the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the Constitution of the State of Georgia, and the Court's inherent powers" [17 at 2]. Windsor's motion for recusal, however, offers no

meaningful argument on those grounds.] 28 U.S.C § 455 provides in pertinent part that any district judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned" or where "he has a personal bias or prejudice concerning a party." 28 U.S.C. §§ 455(a) & (b)(1). [Footnote 2: The Code of Conduct for United States Judges includes parallel provisions, providing that: "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which . . . the judge has a personal bias or prejudice concerning a party." Canon 3C(1) of the Code of Judicial Conduct for United States Judges.] "The test under Section 455(a) is whether an objective, disinterested, lay observer fully informed of the facts on which recusal was sought would entertain a significant doubt about the judge's impartiality." *United States v. Chandler*, 996 F.2d 1073, 1104 (11th Cir. 1993). To warrant recusal or disqualification, any bias "must be personal and extrajudicial; it must derive from something other than that which the judge learned by participating in the case." *McWhorter v. City of Birmingham*, 906 F.2d 674, 678 (11th Cir. 1990). Crucially, "a judge's rulings in a *related* case may not ordinarily serve as the basis for recusal." *Chandler*, 996 F.2d at 1104 (emphasis added). "[O]pinions formed by the judge on the basis of facts introduced or events occurring in the course of the current proceedings, or of *prior* proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994) (emphasis added). And "judicial

rulings, routine trial administration efforts, and ordinary admonishments" are insufficient to require a judge's recusal. *Id.* at 556. Indeed, "judicial remarks during the course of [proceedings] that are critical or disapproving of, or even hostile to, [a party] ordinarily do not support a bias or partiality challenge." *Id.* at 555.

Neither this Court's ruling against Windsor nor this Court's admonishment of Windsor for improperly attempting to depose Judge Evans in the *Maid of the Mist* cases requires recusal in this case. "No objective, disinterested, lay observer fully informed of the facts on which recusal was sought would entertain a significant doubt about the [Court's] impartiality." *Chandler*, 996 F.2d at 1104. This Court's prior rulings and admonishments do not demonstrate "deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky*, 510 U.S. at 555. Windsor's Motion to Recuse Judge William S. Duffey [17] is **DENIED**.

Windsor's Motion for Change of Venue [15] is also **DENIED**. Windsor elected to file this action in this district. He can, and will, receive a fair hearing here. Windsor's dissatisfaction – no matter how extreme – with rulings entered in *Maid of the Mist* cases is not a basis for transferring this action to another judicial district.

Federal Rule of Civil Procedure 4 prescribes what Windsor must do to effect service on the defendants, including those he labels the "Canadian Parties." *See* Fed. R. Civ. P. 4(f) ("Serving an Individual in a Foreign Country"). Windsor's Motion

to Approve Service of Process on Canadian Parties [3] – which asks that this Court *require* counsel who represented the "Canadian Parties" in the now closed *Maid of the Mist* cases to accept service on the "Canadian Parties'" behalf in this case – is **DENIED**.

Windsor's Motion for Waiver of Representation by Counsel and Motion to Allow Alcatraz Media, LLC and Alcatraz Media, Inc. to Assign All Rights in Civil Action No. 1:06-CV-714-ODE to Plaintiff William M. Windsor [7] is **DENIED**. Corporations and limited liability companies like Alcatraz Media, Inc. and Alcatraz Media, LLC must be represented by counsel in litigation. *See Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985); *see also Cook v. Trinity Universal Ins. Co.*, 297 F. App'x 911, 912 (11th Cir. 2008) (same). Furthermore, "federal courts have disapproved 'any circumvention of the rule [of corporate representation by counsel] by the procedural device of an assignment of the corporation's claims to the lay individual.'" *Palazzo*, 764 F.2d at 1386 (quoting *Jones v. Niagara Frontier Transp. Auth.*, 722 F.2d 20, 23 (2d Cir. 1983)).

"[T]o secure the just, speedy, and inexpensive determination" of this action, Fed. R. Civ. P. 1, this Court **STAYS** all further activity in this case except as provided below. Windsor shall have until August 31, 2009, to serve the defendants in accordance with Federal Rule of Civil Procedure 4. Any defendant not served by that date may not be served thereafter without permission of the Court. All defendants served by August 31, 2009, shall have until September 21, 2009, to file motions to dismiss.

Windsor shall have until October 5, 2009, to file a response. All defendants that filed motions to dismiss shall have until October 19, 2009, to file replies. No answer to Windsor's complaint shall be required nor shall any discovery be taken until this Court has ruled on the defendants' motions to dismiss and/or entered another order lifting this Stay and establishing a time for the filing of answers. Except as provided above, no party shall file any motion or other paper *in this case* without prior leave of court. [Footnote 3: The Eleventh Circuit "has upheld pre-filing screening restrictions on litigious plaintiffs." *Martin-Trigona v. Shaw*, 986 F.2d 1384, 1387 (11th Cir. 1993) (citing cases).] Leave of Court must be requested by filing a "Request for Specific Approval" and attaching as an exhibit to that request any proposed motion or other paper, together with all proposed attachments to the motion or other paper. Except for the motions to dismiss, response, and replies thereto provided for above, no motion or other paper shall be deemed properly filed after the entry date of this Order unless this Court has entered an order granting specific approval for filing. The parties are reminded that failure to obey a lawful order of this Court is grounds for dismissal. L.R.41.3A(3), NDGa.

IT IS SO ORDERED, this 30th day of July, 2009.

s/
WILLIAM S. DUFFEY, JR
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION and MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs,

v. 1:09-cv-1543-WSD-WEJ

ALCATRAZ MEDIA, LLC., ALCATRAZ MEDIA, INC., and WILLIAM M. WINDSOR,

Defendants.

OPINION AND ORDER

This matter is before the Court on United States District Judge Orinda D. Evans' Emergency Motion to Quash Subpoena ("Emergency Motion to Quash") [1] and Motion to Supplement United States District Judge Orinda D. Evans' Emergency Motion to Quash Subpoena ("Motion to Supplement") [8]. The subpoena, served by William M. Windsor, seeks Judge Evans' testimony regarding her mental processes and the basis for her decisions in the closed case Maid of the Mist Corp., et al. v. Alcatraz Media, LLC, et al., No: 1:06-cv-714-ODE (N. D. Ga. 2007) ("Maid of the Mist I").

It also is before the Court on Defendant William M. Windsor's Emergency Motion for

Hearing [6]; Verified Motion to Disqualify Hawkins & Parnell, Carl Hugo Anderson, Sarah Bright, Phillips Lytle, and Marc W. Brown [9]; Motion for Hearing on Defendant William M. Windsor's Verified Motion to Disqualify Hawkins & Parnell, Carl Hugo Anderson, Sarah Bright, Phillips Lytle, and Marc W. Brown [11]; Defendant William M. Windsor's Emergency Motion for Conference [13]; Defendant William M. Windsor's Motion to Reconsider or Revise Stay Order [15]; Defendant William M. Windsor's Verified Motion to Disqualify Judge Orinda D. Evans [17]; Defendant William M. Windsor's Motion for Leave to Exceed Page Limitation on Motion to Disqualify Judge Evans and Indwelling Memorandum in Support Thereof [18]; Defendant William M. Windsor's Motion for Hearing on William M. Windsor's Verified Motion to Disqualify Judge Orinda D. Evans [20]; Defendant William M. Windsor's Motion for Leave to Exceed Page Limitation on Response to Emergency Motion to Quash and Indwelling Memorandum in Support Thereof [23]; and Motion of Raley & Sandifer, P.C. and Its Attorneys to Withdraw [26].

I. BACKGROUND

These motions all relate in some way to the Maid of the Mist I case, over which Judge Evans presided. In Maid of the Mist I, Plaintiffs' Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. (collectively "Maid" or "Plaintiffs") and Defendants Alcatraz Media, LLC and Alcatraz Media, Inc. (collectively "Alcatraz") had a business agreement whereby Alcatraz sold vouchers or e-tickets ("vouchers") for tickets to ride

Plaintiffs' Maid of the Mist boats at Niagara Falls. At some point the relationship deteriorated, and Plaintiffs informed Alcatraz that after July 29, 2005, they would not honor Alcatraz's vouchers. Because Alcatraz continued to sell vouchers, Maid filed suit against Alcatraz and Defendant Windsor alleging tortious interference with business relations and seeking a permanent injunction against Alcatraz's future voucher sales. Maid also sought attorney's fees and costs.

The parties filed cross-motions for summary judgment. On August 8, 2007, the Court granted Plaintiffs' Motion for Summary Judgment on its claim for tortious interference, granted a permanent injunction against Defendants' sale of vouchers for rides on Plaintiffs' boats, granted summary judgment in favor of Plaintiffs on each of Alcatraz's counterclaims, and found Defendants liable for attorney's fees and expenses. Judgment was entered on October 16, 2007, and the case was closed that day. The Court later entered an order awarding Plaintiffs' attorney's fees and expenses.

Following the entry of judgment, Defendants appealed. On September 19, 2008, the Eleventh Circuit affirmed the district court's order, but vacated the award of attorney's fees and costs, remanding the attorney's fees and expenses award to the Court for a new determination of the amount awarded. On December 9, 2008, the Court entered a Consent Final Order and Judgment, in which the parties agreed that $395,000.00 in attorney's fees and expenses would be paid to Plaintiffs. The Consent Final Order and Judgment provided: "The

case is hereby closed all issues having been decided. . . . No appeals shall be taken from this Judgment, and the parties waive all rights to appeal."

Over five months later, on or about May 20, 2009, Defendant Windsor attempted to serve a deposition subpoena on Judge Evans seeking Judge Evans' testimony. The subpoena's return date was June 16, 2009. A declaration by Windsor setting forth the substance of the testimony he requested from Judge Evans was attached to the deposition subpoena. In his declaration, Windsor states that he intends to depose Judge Evans to prove that she was biased against Defendants and acted improperly in forming her decisions in the Maid of the Mist I case. Windsor states: "In my opinion, there is no logical explanation for how a federal judge could have handled a case in this manner." Windsor Decl. at ¶ 11.

On June 3, 2009, Judge Evans filed her Emergency Motion to Quash, requesting expedited consideration of her motion before the subpoena's return date. On June 8, 2009, this Court stayed the scheduled deposition of Judge Evans until the Court could decide the motion to quash. On June 10, 2009, Judge Evans filed a Motion to Supplement her Emergency Motion to Quash. On June 22, 2009, Windsor responded to the Emergency Motion to Quash and the Motion to Supplement. [Footnote 1: Defendant Windsor also has filed the other motions identified on page 1 and 2 of this Order.]

Reviewing the subpoena and Windsor's accompanying affidavit, it is clear that Windsor is

seeking to require Judge Evans to testify about her mental process and decision-making in the course of her official judicial duties while presiding over Maid of the Mist I. He claims Judge Evans, in granting summary judgment, wrongfully relied on false testimony offered by the Plaintiffs and that Judge Evans otherwise committed perjury or fraud in issuing her opinions. Plaintiff claims she was biased or prejudiced against Defendants and accuses her of judicial misconduct. These scurrilous and irresponsible statements ultimately are an affront to the decision Judge Evans reached on the Defendants' claims and defenses. Judge Evans' decision was appealed and ultimately affirmed by our circuit. The attempt now to depose Judge Evans to investigate her decision-making and mental process is not allowed and is expressly prohibited by longstanding case law.

Federal Rule of Civil Procedure 45 requires a court, on timely motion, to quash a subpoena that requires disclosure of a privileged or other protected matter. Fed. R. Civ. P. 45(c)(3). It is well-settled that the "mental processes of a judge are not the proper subject of compelled testimony." United States v. Harvey, 544 F.Supp. 189, 191 (S. D. Fla. 1982) (citing United States v. Morgan, 313 U.S. 409, 422 (1941) ("a judge cannot be subjected to such a scrutiny" as the compelled examination "would be destructive of judicial responsibility")). "[J]udges are under no obligation to divulge the reasons that motivated them in their official acts; the mental processes employed in formulating the decision may not be probed." United States v. Cross, 516 F. Supp. 700, 707 (M. D. Ga. 1981), aff'd 742 F.2d 1279 (11th Cir. 1984). See also Robinson v. Commissioner of

Internal Revenue, 70 F.3d 34, 38 (5th Cir. 1995) (same); Grant v. Shalala, 989 F.2d 1332, 1344 (3d Cir. 1993) (same). Courts will only consider compelling judicial testimony in the presence of extreme and extraordinary circumstances, such as a strong showing of bad faith or improper behavior. See Harvey, 544 F. Supp. At 191 (citing United States v. Dowdy, 440 F. Supp. 894, 896 (W. D. Va. 1977)).

Windsor does not and cannot show extreme and extraordinary circumstances warranting enforcement of the subpoena. Judge Evans issued thorough and wellreasoned opinions and orders detailing the reasons for her decision and the authorities which supported them. The Court of Appeals has affirmed her rulings. Windsor's subpoena is an improper attempt to invade the Court's decision-making function and processes which stems from Windsor's continued dissatisfaction with the resolution of his case. This is not a proper basis to subpoena a judge's testimony, and the Emergency Motion to Quash must be granted on this basis alone.

The subpoena also should be quashed because Windsor had it issued well after discovery was over and the case was closed. Ordinarily, a subpoena served after the close of discovery must be quashed. See Pushko v. Klebener, 2007 WL 2671263, at *3 (M. D. Fla. Sept. 7, 2007). Rule 45 requires a subpoena to state the title of the action and the court in which the action is *pending*. Fed. R. Civ. P. 45(a) (emphasis added). Courts have invalidated subpoenas issued after entry of summary judgment or after a case has

been appealed. See Azania v. Squadrito, 1997 WL 268085, at *2 (7th Cir. May 7, 1997) and Matter of City of El Paso, Texas, 887 F.2d 1103, 1105 (D.C. Cir. 1989). Not only is discovery closed, but the entire case is closed *and* the Eleventh Circuit has affirmed Judge Evans' rulings. [Footnote 2: The Judicial Conference of the United States has promulgated regulations pursuant to 28 U.S.C. § 604 governing the testimony of judicial personnel in response to issued subpoenas. Among the purposes of the regulations is to protect the deliberative processes of the judiciary. The regulations required Windsor to process his request to depose Judge Evans in accordance with the Federal Judiciary's regulations regarding the testimony of judicial officers. See Subpoena Regulations Adopted by Judicial Conference: Testimony of Judiciary Personnel and Production of Judicial Records in Legal Proceedings, (March 2003), §§ 1 et seq. Windsor's failure to comply with the regulations is an independent ground for quashing the subpoena.]

With respect to the other motions Defendant filed, they seek to disqualify counsel and the Court who participated in Maid of the Mist I, a case the Court already has noted has been appealed, affirmed and which is over and closed. The motions are improper and otherwise are moot.

Accordingly, **IT IS HEREBY ORDERED** that Judge Orinda D. Evans' Emergency Motion to Quash Subpoena [1] and Motion to Supplement United States District Judge Orinda D. Evans' Emergency Motion to Quash Subpoena [8] are **GRANTED**.

IT IS HEREBY FURTHER ORDERED Defendant William M. Windsor's Emergency Motion for Hearing [6]; Verified Motion to Disqualify Harkins & Parnell, Carl Hugo Anderson, Sarah Bright, Phillips Lytle, and Marc W. Brown [9]; Motion for Hearing on Defendant William M. Windsor's Verified Motion to Disqualify Hawkins & Parnell, Carl Hugo Anderson, Sarah Bright, Phillip Lytle, and Marc W. Brown [11]; Defendant William M. Windsor's Emergency Motion for Conference [13]; Defendant William M. Windsor's Motion to Reconsider or Revise Stay Order [15]; Defendant William M. Windsor's Verified Motion to Disqualify Judge Orinda D. Evans [17];Defendant William M. Windsor's Motion for Leave to Exceed Page Limitation on Motion to Disqualify Judge Evans and Indwelling Memorandum in Support Thereof [18]; Defendant William M. Windsor's Motion for Hearing on William M. Windsor's Verified Motion to Disqualify Judge Orinda D. Evans [20]; and Defendant William M. Windsor's Motion for Leave to Exceed Page Limitation on Response to Emergency Motion to Quash and Indwelling Memorandum in Support Thereof [23] are DENIED AS MOOT.

IT IS HEREBY FURTHER ORDERED that the Motion of Raley & Sandifer, P.C. and its Attorneys to Withdraw [26] is GRANTED on the grounds their clients, Defendants Alcatraz Media, LLC and Alcatraz Media, Inc., are not parties in this action and thus they should not be listed as counsel of record in this action.

SO ORDERED this 30th day of June, 2009.

/s/
WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

MAID OF THE MIST CORPORATION and MAID OF THE MIST STEAMBOAT COMPANY, LTD.,

Plaintiffs,

v. 1:09-cv-0220-WSD-WEJ

ALCATRAZ MEDIA, LLC., ALCATRAZ MEDIA, INC., and WILLIAM M. WINDSOR,

Defendants.

ORDER

This matter is before the Court on United States District Judge Orinda D. Evans' Emergency Motion to Quash Subpoena ("Emergency Motion to Quash") [1]. [Footnote 1: 1 Plaintiffs Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. filed a Motion for Joinder [3] seeking to join in Judge Evans' Emergency Motion to Quash, which the Court construes as a motion to adopt Judge Evans' motion. This motion is hereby GRANTED.] The subpoena, served by William M. Windsor, seeks Judge Evans' testimony regarding her mental processes and the bases for her decisions in the closed case Maid of the Mist Corp., et al. v. Alcatraz Media, LLC, et al., No: 1:06-cv-714-ODE (N.D.Ga. 2007).

On or about May 20, 2009, Windsor attempted to serve a deposition subpoena on Judge Evans in her chambers, hand-delivering it to Judge Evans' assistant. The subpoena's return date is June 16, 2009. On June 3, 2009, Judge Evans filed her Emergency Motion to Quash, requesting expedited consideration of her motion before the subpoena's return date.

Pursuant to Local Rule 7.1(B), a party opposing a motion must serve a response not later than ten (10) days after service of the motion. L.R. 7.1(B), NDGa. Excluding weekends and holidays, and adding three days for mailing, see L.R. 6.1(A), Windsor's response is due on June 22, 2009, after the June 16, 2009 scheduled deposition date. Accordingly, the Court **STAYS** the subpoena and deposition until the Emergency Motion to Quash is fully briefed and the Court decides the motion.

SO ORDERED this 8th day of June, 2009.

/s_____
WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

WILLIAM M. WINDSOR'S AFFIDAVIT OF PREJUDICE
OF JUDGE WILLIAM S. DUFFEY

I, William M. Windsor, the undersigned, hereby declare under penalty of perjury:

1. My name is William M. Windsor ("Windsor" or "Plaintiff"). I am over the age of 21, am competent to testify, and have personal knowledge of the matters stated herein.

2. This William M. Windsor's Affidavit of Prejudice of Judge William S. Duffey ("Affidavit of Prejudice") is offered in support of the Emergency Motion to Recuse Judge Duffey.

3. I have served as a part-time unpaid consultant to my son's companies, Alcatraz, LLC and Alcatraz Media, Inc. (collectively, "Alcatraz").

4. I am the Plaintiff in this action, and I am representing myself pro se.

5. I am not an attorney.

6. In an effort to do the best possible job as a pro se party, I have studied the applicable Federal Rules of Civil Procedure, Local Rules, the Georgia Code of Professional Conduct for attorneys, the Official Code of Georgia Annotated, certain federal statutes, the Federal Rules of Judicial Procedure, the Federal Rules of Appellate Procedure, the Code of Conduct for United States Judges, and case law.

7. This declaration is based upon my personal knowledge. There are some opinions and observations included as well.

8. In this declaration, references to a "Docket #" refer to the document number in this Civil Action No.1:09-CV-02027-WSD. When a reference to an "Exhibit #" is made, refers to an Exhibit attached to this or another declaration/affidavit.

9. In this declaration, references to "Evans Docket #" refer to the document number in Civil

Action No. 1:06-CV-0714-ODE ("MIST-1")

10. In this declaration, references to "Duffey Docket #" refer to the document number in Civil Action No. 1:09 CV 1543-WSD WEJ ("Deposition Action").

11. This Affidavit of Prejudice of William M. Windsor ("Affidavit of Prejudice") is provided in support of the Emergency Motion to Recuse Judge Duffey.

FACTUAL BACKGROUND

12. The Factual Background involving Judge Duffey and William M. Windsor is provided in paragraphs 13 to 30:

13. On June 3, 2009, the U.S. Attorney representing Judge Orinda D. Evans ("Judge Evans") filed a motion to quash a subpoena for the deposition of Judge Evans. [Duffey Docket #1.]

14. The motion was referred to Judge William S. Duffey ("Judge Duffey"), and this created the "Deposition Action." Judge Duffey had never had any dealings with me prior to the referral of that motion. I never heard the name "Judge William S. Duffey" until on or about June 30, 2009. There was no conference held, and there was no hearing held.

15. On June 8, 2009, Judge Duffey entered an order staying the properly subpoenaed deposition. [Duffey Docket #4.]

16. Judge Duffey made a number of incorrect statements in the order dated June 8, 2009. (See paragraphs 118 to 121 below.) The order was totally pro-Judge Evans, and it demonstrates that the bias had begun.

17. On June 8, 2009, I filed a Notice of Appearance pro se. [Duffey Docket #5.] I also filed a Motion for Hearing. [Duffey Docket #6.]

18. On June 10, 2009, the U.S. Attorney supplemented his motion to quash. [Duffey Docket #8.]

19. On June 15, 2009, I filed a Motion for Conference. [Duffey Docket #13.]

20. On June 18, 2009, I filed a Motion for Reconsideration of the Order Staying Case and the Twenty Ninth Declaration of William M. Windsor [Duffey Docket #15.] This was filed to note the errors in Judge Duffey's order. I file a declaration with every motion because the FRCP indicates that you must do so when the motion alleges facts. I also have to file a Notice of Filing with everything that I file as pro se parties are not allowed to do electronic filings, so every time I file anything, there has to be at least three things filed. Now that I also have to file a Request to be able to file, I have four things to file every time I file anything.

21. On June 22, 2009, I filed a Motion to Disqualify Judge Evans with and the Thirty-Second Declaration of William M. Windsor. [Duffey Docket #17.]

22. On June 22, 2009, I filed a Response to the Motion to Quash and the Thirty-Fifth Declaration of William M. Windsor. [Duffey Docket #21.]

23. On June 22, 2009, I also filed a Response to the Motion to Supplement the Motion to Quash and the Thirty-Fourth Declaration of William M. Windsor. [Duffey Docket #24].

24. On June 30, 2009, the Order to Quash the Deposition of Judge Evans was issued by Judge

Duffey. [Duffey Docket #32.] The order described me as "scurrilous and irresponsible." This was written by a man who does not know me, had never met me, and who made such a statement and decision based solely on my affidavits. The only explanation for this response by Judge Duffey is that he was predisposed to be biased against me because I had the audacity to try to take the deposition of Judge Evans to obtain information that I need to pursue my claims against various of the Defendants.

25. On July 10, 2009, I filed a Motion for Reconsideration and the Thirty-Seventh Declaration of William M. Windsor [Duffey Docket #34] and a Motion for Change of Venue and the Forty-Sixth Declaration of William M. Windsor [Duffey Docket #36]. The Duffey Docket – Civil Action No. 1:09-cv-01543-WSD is referenced and incorporated herein in its entirety as proof of the total dealings between Judge Duffey and me prior to July 27, 2009. The only affidavits filed in the Duffey Docket were filed by me, so the only facts before Judge Duffey were the facts presented by me. This makes the scurrilous and irresponsible slur even more antagonistic and improper.

26. On July 27, 2009, I filed a complaint to begin the instant civil action. [Docket #1.]

27. On the morning of July 28, 2009, I filed a Motion for Temporary Restraining Order. [Docket #11.] I asked for an immediate hearing. Judge Duffey did not set the hearing until July 30, 2009 at 3:00 pm.

28. When I was told by Anthony of the District Court's Clerk's Office that Judge Duffey would be presiding in the instant civil action, I drove straight home and prepared a Motion to Recuse

Judge Duffey and a Motion for Change of Venue, and I returned to file those late in the day on July 28, 2009. [Docket #15 and 17.]

29. On July 30, 2009, the Temporary Restraining Order Hearing was held. Judge Duffey denied the motion. [Docket #31.] Judge Duffey distributed an order on my motions regarding service of process on Canadian defendants, waiver of representation, motion to change venue, and motion to recuse. All were denied. [Docket #22.] Judge Duffey was antagonistic and biased in the hearing. Details of this are provided in paragraphs 81 to 116 below and in the Transcript of the Temporary Restraining Order Hearing [Docket #31.]

30. On August 3, 2009, I filed the Emergency Motion to Recuse Judge Duffey. The entire Docket in Civil Action No. 1:09-cv 02027 WSD is referenced and incorporated herein as if attached hereto.

JUDGE DUFFEY IS HOPELESSLY BIASED AGAINST ME

31. There is not a chance in the world that I will get a fair and impartial trial with Judge Duffey. He is hopelessly biased against me. Judge Duffey doesn't even pretend to hide his bias; it is plain to see.

32. Judge Duffey is obviously friends with Judge Evans. Her chambers are just across the hall from his. I hoped that Judge Duffey's commitment to his oath as a judge would be more important to him than his friendship with Judge Evans, but it is clear to me that his prejudice for Judge Evans and other judges is overwhelming to him. All I want is to

have someone fair and impartial with an open mind to listen to the facts and review as much of the evidence as is needed to prove each of my claims. It is obvious to me that Judge Duffey doesn't care about the facts and doesn't want to consider the facts.

33. When I informed a prospective attorney that I had drawn Judge Duffey to review Judge Evans' Motion to Quash the subpoena that was issued to Judge Evans for a deposition, I was informed that I had "jumped out of the frying pan and into the fire" or words to that effect. I was informed that Judge Duffey has a huge ego and is mean. From my observation at the TRO Hearing, I have to agree.

MOTION TO RECONSIDER JUDGE DUFFEY'S STAY ORDER IN THE "DEPOSITION ACTION" SHOWS BIAS

34. I detailed the false and unfair statements in Judge Duffey's June 8, 2009 Stay Order [Duffey Docket #4] in a Motion to Reconsider Stay Order. [Duffey Docket #15.] I agreed that the Stay Order was appropriate under the circumstances but asked that the wording of the order be changed to represent the facts. I made the statements in paragraphs 35 to 80 in that Motion to Reconsider and the attached Twenty-Ninth Declaration of William M. Windsor ("Dec #29"):

35. The Stay Order says: "The subpoena, served by William M. Windsor, seeks Judge Evans' testimony regarding her mental processes and bases for her decisions in the closed case...." [Duffey Docket #14 -- Dec #29 ¶ 29004.]

36. This alleged "statement of fact" is unfair and improper because there was no such evidence before Judge Duffey. In fact, I said just the opposiote, and even offered to submit my questions in advance for approval. [Duffey Docket #14 -- Dec #29 ¶ 29005.]

37. There was no affidavit provided by Mr. Christopher Huber, the U.S. Attorney ("Mr. Huber"), or Judge Evans, so there were no facts before this Court for the Movant. [Duffey Docket #14 -- Dec #29 ¶ 29006.]

38. The only evidence before the Court consisted of several declarations by me. These declarations do not indicate that I "seek Judge Evans' testimony regarding her mental processes and the bases for her decisions...." I seek Judge Evans' testimony regarding other than her "mental processes." [Duffey Docket #14 -- Dec #29 ¶ 29007.]

39. I had to look up a definition for "mental processes." It seems to be defined as "the process of thinking." (Exhibit A hereto.) While some of what I need to ask will obviously involve thinking, the process that Judge Evans' brain uses is not the focus of my planned inquiries. [Duffey Docket #14 -- Dec #29 ¶ 29008.]

40. I ask that the Stay Order be revised to delete the reference to mental processes so that the Stay Orders says: "The subpoena, served by William M. Windsor, seeks Judge Evans' testimony in new proceedings in the case Maid of the Mist Corp., et al. v. Alcatraz Media, LLC, et al., No: 1:06-cv-0714-ODE (N.D.Ga. 2007)." [Duffey Docket #14 -- Dec #29 ¶ 29009.]

41. The "closed case" language in the Stay Order is inappropriate. The declarations and

motions before this Court and in 1:06-cv-0714-ODE indicate that this is not a "closed case." [Duffey Docket #14 -- Dec #29 ¶ 29010.]

42. I have conducted online searches in an attempt to find a definition for "closed case," and I cannot find this term defined. The word "closed" is defined as "not open" and "blocked against entry." I therefore define the term "closed case" as a legal action that is blocked against entry." (Exhibit B to Dec #29.) [Duffey Docket #14 -- Dec #29 ¶ 29011.]

43. It is clear that 1:06-CV-0714-ODE is not a "closed case" because there are motions being filed pursuant to the rules of civil procedure and law, and Alcatraz and I have not exhausted all remedies available to us under the law and rules in this case. One of Mr. Huber's justifications for quashing the subpoena is that the "case was closed." The use of the term was convenient for the improper purposes of Mr. Huber, but the use of the term is improper for this Stay Order. [Duffey Docket #14 -- Dec #29 ¶ 29012.]

44. A Final Order was issued in ***Maid v. Alcatraz*** in December 2008 based upon a settlement reluctantly agreed to by Alcatraz and me. That settlement did not, however, include a release in favor of Maid. We settled based upon fear of what Judge Evans would wrongfully do to them, but we did not give Maid or their attorneys any release, and we did not agree that we would take no further action in this or related matters. [Duffey Docket #14 -- Dec #29 ¶ 29013.]

45. According to my reading of law, rules, and case law, I have determined that "proceedings" do not necessarily end after a Final Order is entered. Specifically, Alcatraz and I have the legal right to

pursue actions under various sections of FRCP Rule 60, under various Georgia statutes, under Local Rule 83.1C and 83.1F(2), under the Court's inherent powers, and probably under various rules and statutes that I do not yet know about. [Duffey Docket #14 -- Dec #29 ¶ 29014.]

46. Judge Evans issued an order on May 22, 2009 in 1:06-cv-0714-ODE that noted that Alcatraz and I agreed to not appeal the Final Order. That is true, because we did not give up any rights in so doing as the Supreme Court appeal time either had expired or was to expire soon. [Duffey Docket #14 -- Dec #29 ¶ 29015.]

47. An appeal is defined as "a timely resort by an unsuccessful party in a lawsuit to an appropriate superior court empowered to review a final decision." The Federal Rules of Appellate Procedure ("FRAP") defines appeal in Rule 3: "An appeal permitted by law as of right from a district court to a court of appeals may be taken only by filing a notice of appeal...." Appeals must be made within the time prescribed by statute or by the governing rules of the appellate court. Such statutes begin to run only after a final decision has been made. The timely filing of the notice of appeal with the clerk of the appellate court and the appellee completes, or perfects, the procedure. If the appeal is not taken and perfected within the time set by statute, the right to appeal is foreclosed. Exhibit C to Dec #29 includes many definitions printed online defining "appeal" as "a proceeding for review at a higher court." [Duffey Docket #14 -- Dec #29 ¶ 29016.] The Twenty-Ninth Declaration of William M. Windsor ("Dec #29") is referenced and incorporated herein as if attached hereto.

48. The actions in 1:06-cv-0714-ODE, the Deposition and Action, and this instant action do not constitute an appeal. There is no higher court involved, and I have every legal right to pursue these actions in an attempt to see justice done. [Duffey Docket #14 -- Dec #29 ¶ 29017.] That is ALL that I am trying to do.

49. Subpoenas and discovery are permissible whenever a "proceeding" is pending. My motions create a "proceeding." [Duffey Docket #14 -- Dec #29 ¶ 29018.] There is nothing in the FRCP that provided that I could not take a deposition, and the court clerk issued and signed the subpoena for me after reading a letter that I sent explaining my need as a pro se party.

50. Under 28 U.S.C. § 455(a), a district judge must recuse himself "in any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). [Duffey Docket #14 -- Dec #29 ¶ 29019.]

51. In ***U.S. v. Sciarra***, the court said: "We note that section 455(d)(1) defines "proceeding" to include "pre-trial, trial, appellate review, or other stages of litigation." Each of the statutory examples of a proceeding implies the judge's participation in decisions affecting the substantive rights of litigants to an actual case or controversy. For example, the "pre-trial" stage, in most instances, begins with the filing of a complaint, an indictment, or some other adversarial document that identifies the parties and the substantive issues to be litigated. Almost all of a judge's pre-trial rulings and orders might affect the ultimate adjudication of substantive rights. Accordingly, section 455 confers a right upon the litigant to seek recusal at this stage. **It follows that**

the statute grants a similar right during subsequent phases of the litigation, when a judge has already decided, or is in the process of deciding, the most significant issues presented in a case. We therefore construe section 455(a)'s "proceeding" requirement to embrace only such activity following the initiation of an action by a private party or governmental agency designed ultimately to modify or affect the substantive rights of a litigant." *U.S. v. Sciarra*, 851 F.2d 621, 635 (11th Cir. 1988). (emphasis added.) It "confers a right upon the litigant to seek recusal [during] . . . . phases [*3] of the litigation." *Id.* Thus, the proceeding requirement "embrace[s] only such activity following the initiation of an action by a private party . . . designed ultimately to modify or AFFECT the substantive rights of a litigant." *Id.* (Exhibit H to Dec #29.) [Duffey Docket #14 -- Dec #29 ¶ 29020.]

52. A pending proceeding is any proceeding in which the rights of the petitioners are at issue. I am a petitioner, and my rights are at issue in the motions that are filed in the instant case and in 1:06-cv-0714-ODE. [Duffey Docket #14 -- Dec #29 ¶ 29021.]

53. The revisions in paragraph 29009 of Dec #29 accomplish this needed change in the Stay Order. [Duffey Docket #14 -- Dec #29 ¶ 29022.]

54. The language in the Stay Order regarding the service of the subpoena is inaccurate. The Stay Order says: "Windsor attempted to serve a deposition subpoena on Judge Evans in her chambers...." This, too, is incorrect information improperly claimed by Mr. Huber. [Duffey Docket #14 -- Dec #29 ¶ 29023.]

55. The Second Declaration of Michelle Thornton ("Ms. Thornton") is attached as Exhibit D to Dec #29. Ms. Thornton explains that she determined the polite way to deliver the subpoena to the receptionist after consulting with the U.S. Marshal Service. Ms. Thornton did not go near the chambers of Judge Evans. (Exhibit D to Dec #29.) [Duffey Docket #14 -- Dec #29 ¶ 29024.]

56. I respectfully requested that the first sentence of Page 2 of the Stay Order be revised to read: "On May 20, 2009, Windsor's agent hand-delivered a deposition subpoena to Judge Evans' assistant in the reception area of Judge Evans' staff office as the assistant advised Windsor's agent that she could accept the subpoena on behalf of Judge Evans. This decision was made after the assistant contacted the U.S. Attorney, and the U.S. Attorney advised the assistant that she could accept the subpoena and should return the $40.00 witness fee to Windsor." [Duffey Docket #14 -- Dec #29 ¶ 29025.]

57. The nature of the testimony sought is to establish that Judge Evans withheld documents from Alcatraz and me improperly based upon either a false claim by the judge or fraud upon the court by Maid or their attorneys. This has nothing whatsoever to do with mental processes or decision-making. [Duffey Docket #14 -- Dec #29 ¶ 29036.]

58. The nature of the testimony sought is to establish that Judge Evans ignored my report of hundreds of lies and counts of perjury by Maid and numerous false sworn pleadings, false pleadings, and improper pleadings by Maid attorneys. This has nothing whatsoever to do with mental processes; this

has to do with dishonesty and a fraud upon the court. [Duffey Docket #14 -- Dec #29 ¶ 29037.]

59. The nature of the testimony sought is to establish that Judge Evans was biased against Alcatraz and me and in favor of Maid. This has nothing whatsoever to do with mental processes or decision-making; this testimony is sought solely due to the legal requirement that I must prove bias in order to get Judge Evans recused. [Duffey Docket #14 -- Dec #29 ¶ 29038.]

60. The nature of the testimony sought is to generate testimony from Judge Evans that will establish facts to support my motions to Recuse Judge Evans. Among other things, I have stated that 210 of the 410 statements in Judge Evans' Summary Judgment Order were false, and I have documented these using the evidence that was before Judge Evans and ignored. This has nothing whatsoever to do with mental processes or decision-making; this testimony is sought solely due to the legal requirement that I must prove bias in order to get Judge Evans recused. [Duffey Docket #14 -- Dec #29 ¶ 29039.]

61. The nature of the testimony sought is to make inquiries as to whether Judge Evans or a clerk to Judge Evans may have been improperly influenced in this matter. This has nothing whatsoever to do with mental processes or decision-making; this testimony is sought solely due to the legal requirement that I must prove bias or violations of the law in order to get Judge Evans recused. [Duffey Docket #14 -- Dec #29 ¶ 29040.]

62. The relevance of the testimony sought to the legal proceedings is that Judge Evans has not been impartial, has made illogical statements in her

orders that do not reflect the facts, has invented facts, and much more. In my opinion, there is no logical explanation for how a federal judge could have handled a case in this manner. This has nothing whatsoever to do with mental processes or decision-making; this testimony is sought solely due to the legal requirement that I must prove bias in order to get Judge Evans recused. [Duffey Docket #14 -- Dec #29 ¶ 29041.]

63. The relevance of the testimony is that it should prove that Judge Evans was hoodwinked by Maid and/or was so biased against Alcatraz and me or in favor of Maid that the judge was simply unfair to Alcatraz and me for some reason that only Judge Evans knows. This has nothing whatsoever to do with mental processes or decision-making; this testimony is sought solely due to the legal requirement that I must prove bias in order to get Judge Evans recused. [Duffey Docket #14 -- Dec #29 ¶ 29042.]

64. The testimony sought is not available from any other source or by any other means. Judge Evans is the only person who reviewed the documents in camera. Judge Evans is the only person who knows what she was thinking and why she was so biased. This has nothing whatsoever to do with mental processes or decision-making; this testimony is sought solely due to the legal requirement that I must prove bias in order to get Judge Evans recused. [Duffey Docket #14 -- Dec #29 ¶ 29043.]

65. The mission of judges is to see that justice is done. In ***Maid v. Alcatraz***, justice was not done, and Judge Evans was largely responsible for this. The federal judiciary must not allow judges to

withhold documents, turn a blind eye to massive perjury, ignore the evidence before the Court, invent evidence, and show a complete lack of impartiality. There can be no better use of the time of federal judicial personnel than to expose the wrongdoing in this case. [Duffey Docket #14 -- Dec #29 ¶ 29044.]

66. Mr. Huber stated: "In the declaration, Windsor states that the deposition seeks testimony regarding the bases for Judge Evans' decisions in the underlying matter and to provide information to attack those decisions." This is false. Dec #8 filed on May 20, 2009 is attached to Dec #29 as Exhibit F and is incorporated therein for all purposes. Nowhere in Dec #8 does it say what Mr. Huber claims. This copy is not notarized as it was an exhibit to the subpoena, but the copy of Dec #8 that was filed with the Court was notarized. [Duffey Docket #14 -- Dec #29 ¶ 29045.]

67. Mr. Huber also stated: "The purported rationale for issuing the subpoena to Judge Evans is to discover facts to support my Motion for Recusal. That motion has already been denied. For that reason alone, the subpoena should be quashed as moot." I spoke with Mr. Huber on June 2, 2009 at approximately 11:15 am the day before this Motion to Quash was filed, and I informed Mr. Huber that he was filing a Second Motion to Recuse Judge Evans as well as additional motions. These motions were filed on June 4, 2009. [Duffey Docket #14 -- Dec #29 ¶ 29046.]

68. As unpleasant as it may be for Judge Duffey to believe that another federal judge may have committed wrongdoing, I most respectfully request that Judge Duffey spend a little time considering the facts in this case. Please have a

clerk review what has happened. I cannot believe that any honest court will be able to excuse what Judge Evans, Maid, and Maid's Attorneys have done. [Duffey Docket #14 -- Dec #29 ¶ 29057.]

69. I have prepared a list of questions for this Court to consider. See Exhibit #1 to the Twenty-Ninth Declaration of William M. Windsor ("Duffey Docket #14 - Dec #29 ") attached to Dec #29 as Exhibit #G. These questions highlight the major wrongdoing in 1:06-CV-0714-ODE. If this Court answers "yes" to many of these questions, this should indicate to this Court that there has been significant wrongdoing. [Duffey Docket #14 -- Dec #29 ¶ 29058.]

70. I have made many thousands of sworn statements under penalty of perjury in over 30 declarations, three (3) depositions, and court testimony at the Preliminary Injunction Hearing. If I have lied, I will be guilty of perhaps over 10,000 counts of perjury. I state emphatically that I have not lied, and there is not one single sworn affidavit from Maid to controvert my sworn statements. I will gladly submit to a polygraph if Maid and Maid's Attorneys will do the same. [Duffey Docket #14 -- Dec #29 ¶ 29059.]

71. The true statement of facts in MIST-1 have been set out in the Twenty-Fifth Declaration of William M. Windsor ("Dec #25") that has been filed in MIST-1 – Evans Docket #462.

72. I have done hundreds of hours of legal research attempting to find a case that shares similar facts to the ***Maid v. Alcatraz*** case. I have been unsuccessful. I have not even come close to finding a case with the magnitude of legal abuses that exist in this case. I have been unsuccessful in

finding any cases where 46 of the 50 sworn paragraphs in the verified complaint were false. I have been unsuccessful in finding any cases where the judge granted a $5,000 preliminary injunction bond in a case where the damages proved to be approximately $1,000,000. I have been unsuccessful in finding any cases where one of the parties lied over 400 times and committed massive perjury, and most of those lies and that perjury were proven with the subsequent testimony of the party's managers. I have been unsuccessful in finding any cases where the judge consciously chose to ignore the claims of over 400 lies, perjury, and false sworn pleadings galore. I have been unsuccessful in finding any cases where the judge denied one party the ability to obtain the names and contact information for witnesses in discovery. I have been unsuccessful in finding any cases where the judge made over 200 false statements in its preliminary injunction and summary judgment orders. I have been unsuccessful in finding any cases where the district court routinely violated its own orders. I have been unsuccessful in finding any cases where the district court invented facts for the plaintiffs so the judge could rule against the defendants. Perhaps these cases exist, but I haven't been able to find them. [Duffey Docket #14 -- Dec #29 ¶ 29061.]

73. This is a substantial case in which approximately $1,000,000.00 has been "stolen" from Alcatraz and me in the guise of a lawsuit. [Duffey Docket #14 -- Dec #29 ¶ 29062.]

74. If denied the ability to depose Judge Evans, I will never know if Judge Evans was a customer or relative of Maid. I will never know if Judge Evans, a President Carter Democrat, drove by

my home, saw George W. Bush and Saxby Chambliss signs in the yard and established extrajudicial bias against me. I will never know if Judge Evans established extrajudicial bias against me because I was in the U.S. Army during the Viet Nam years, or if the bias came because I was in the Army Reserves for six years. I will never know if Judge Evans has a bias against overweight men with grey beards, pro se parties, people in the ticket selling business, men accused of calling a woman a bitch, or young people who start and build businesses. The bias is clear. The problem is that I cannot prove extrajudicial bias unless I can depose her. [Duffey Docket #14 -- Dec #29 ¶ 29063.]

75. I have accused Judge Orinda D. Evans of pervasive bias for the Plaintiffs and pervasive prejudice against Alcatraz and me in 1:06-CV-0714-ODE. [Duffey Docket #14 -- Dec #29 ¶ 29064.]

76. I have accused Maid of hundreds of counts of perjury, and I have documented the lies and the proof in sworn declarations filed in 1:06-CV-0714-ODE. [Duffey Docket #14 -- Dec #29 ¶ 29065.]

77. Judge Evans has turned a blind eye and a deaf ear to the perjury and wrongful actions of Maid and Maid's Attorneys in 1:06-CV-0714-ODE. [Duffey Docket #14 -- Dec #29 ¶ 29066.]

78. Judge Evans has previously ignored my claims of Rule 11 violations and perjury, and Judge Evans has avoided giving proper consideration to the merits of my sworn statements under penalty of perjury in 1:06-CV-0714-ODE. [Duffey Docket #14 -- Dec #29 ¶ 29067.]

79. I submit that Judge Evans should be found guilty of gross judicial misconduct. Based upon the unbelievable mistreatment of the

Defendants in this case, a possible explanation is that Judge Evans or someone on her staff was improperly influenced. I have filed a complaint with the FBI asking the FBI to investigate this matter. [Duffey Docket #14 -- Dec #29 ¶ 29068.]

80. Judge Duffey ruled that my Motion to Reconsider was moot when he issued an order to quash the deposition.

MY IMPRESSION FROM TRO HEARING IS THAT JUDGE DUFFEY WAS MEAN TOWARD ME AND HOPELESSLY BIASED AGAINST ME

81. My impression is that Judge Duffey is mean. Any reasonable lay person sitting in Judge Duffey's courtroom at the Temporary Restraining Order Hearing would say that Judge Duffey demonstrated a lack of impartiality and a clear antagonism to me. Much of this was in the way he said the things that he said, but I believe the transcript of his statements will also reveal the antagonism. A transcript of the TRO Hearing is not yet available, but I am filing this motion prior to receiving it due to the emergency need to get this filed.

82. Judge Duffey clearly violated the Code of Judicial Conduct ("CJC") as I read it. Judge Duffey absolutely did not promote public confidence in the integrity and impartiality of the judiciary (Canons 1, 2, and 3 of the CJC). He violated Canon 3 B.(5) by displaying bias and prejudice. He violated Canon 3 B.(8) by failing to handle matters fairly. He violated Canon 3 E.(1) by refusing to disqualify himself in a matter in which his impartiality would be reasonably questioned by the vast majority of the

reasonable lay people in America.

83. Judge Duffey's violations of the Code of Judicial Conduct establish the pervasive bias that he has shown against me.

84. There are many troubling decisions and remarks by Judge Duffey in dealing with the instant civil action in its first week. They reveal a high degree of favoritism or antagonism such that removal is appropriate.

85. At the TRO Hearing, Judge Duffey came off to me as angry at me. He kept his anger under check a lot of the time, but I quickly realized that it was always there, and it surfaced a number of times. I interpreted his comments about my 499 page complaint as contempt. The complaint is extremely long, but 380 pages were simply a listing of the false statements made to the court in the underlying case by defendants in the instant action. The lies were listed for two very good reasons: (1) to clearly state the issues, and (2) to force the Defendants to respond to the issues in their Verified Answers. This is a most unorthodox approach, but I am a pro se litigant who is at an extreme legal disadvantage in this case. I have always been an idea person throughout my business career, and I have done two extremely unorthodox things in an attempt to cover my bases and simplify the litigation. The detailed complaint should shorten this proceeding because the verified answers should accomplish a lot. The Defendants cannot dispute their false sworn statements because I have provided the proof, often in their own words. If they lie again, they dig a deeper perjury hole. I expect they will take the Fifth. I believe that if they can't controvert my sworn testimony and proof, they will lose. The

other extremely unorthodox thing that I have done is to prepare and file all the evidence. Every document along with an extremely detailed chronology of events. It is massive, but it's all there in Evans Docket #462, which is referenced and incorporated herein as if attached hereto. The Defendants can conduct discovery with me, but I have already given them everything that I could think of before I filed suit. I swore to it all before a notary, and I will swear to it all in court.

86. At the TRO Hearing, Judge Duffey was much more than rude to me in criticizing the Verified Action that I filed. Specifically, Judge Duffey indicated that I was improperly trying to sue based upon criminal statutes. He said the criminal complaints were shown as "counts." I responded that these were clearly identified as "RICO Predicate Acts" and that I was not attempting to sue for criminal offenses because I am well aware that such action is not permitted. A review of Docket #1 will show that the predicate acts were clearly identified. See paragraphs 2759, 2801, 2862, 2868, 2874, 2880, 2899, 2931, 2940, and 2948 of the Verified Action – Docket #1. I did, however, prepare an amendment to make it even clearer that evening so I could file the "Request for Specific Action" to be able to file the motion the next morning. The manner in which Judge Duffey handled this demonstrated his pervasive bias and deep-seated antagonism. And the Court Clerks refused to file my Request for Specific Action to file the Amendment. I am trying to file this again today.

87. The Verified Action does not have "counts." See Docket #1, heading before paragraphs 2692, 2741, 2809, 2835, 2852, 2861, 2867, 2873,

2879, 2898, 2930, 2939, 2947, 2955, 2972, 2980, 2987, 2999, 3011, and 3016. The Verified Action specified each legal issue as a "CLAIM FOR RELIEF," and each predicate act was identified as the first paragraph under the "CLAIM" heading (paragraphs 2759, 2801, 2862, 2868, 2874, 2880, 2899, 2931, 2940, and 2948 of the Verified Action – Docket #1). For example, these all read similar to the following: "O.C.G.A. 16-8-3 is a predicate act under the Georgia RICO Act." I felt this was totally clear, but this is my first filing of a lawsuit pro se, and I am doing the best that I can. It seems to me that a predicate act is a "claim for relief with RICO," because RICO requires that multiple predicate acts be proven along with some other factors. Therefore, clearly identifying each claim seems quite important. In a criminal action, I believe each of these would be "counts" or "causes of action." I believe Judge Duffey's complaint about this is merely a manifestation of his deep-seated antagonism for me.

88. Federal Rules of Civil Procedure ("FRCP") Rule 8 (d): "Pleading to Be Concise and Direct; Alternative Statements; Inconsistency. (1) In General. Each allegation must be simple, concise, and direct. No technical form is required." My understanding from this was that "no technical form was required." I generally patterned my Verified Action after the format used by Maid in the underlying case with some improvements, including the fact that all of my statements are true, and virtually all of theirs were false. [Evans Docket #1.] I have no doubt that my Verified Action could have been more concise, but I sincerely did not know what to leave out. It was clearly direct. The Defendants

cannot claim that there was any confusion about what the claims are!

89. FRCP Rule 8 (d) (2): "Alternative Statements of a Claim or Defense. A party may set out 2 or more statements of a claim or defense alternatively or hypothetically, either in a single count or defense or in separate ones. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient." I quoted several different statutes in the "Claims for Relief" and "Predicate Acts" as alternatives. My understanding of this rule is that what I did was sufficient. If it was not, I ask the Court for understanding, if guidance is denied. I did my very best.

90. FRCP Rule 8 (d) (3): "Inconsistent Claims or Defenses. A party may state as many separate claims or defenses as it has, regardless of consistency." I stated "as many separate claims" as I felt I had. It seems to me that the best approach to winning is to state as many valid claims as you have in an effort to prevail on at least some. I find the law is as gray as the world gets. If it were black-and-white, it would all be much easier.

91. FRCP Rule 8 (e) "Construing Pleadings. Pleadings must be construed so as to do justice." I ask this Court to construe the Verified Action so as to do justice.

92. If the Court has any problem of any type with anything that I have filed or alleged, I ask the Court to schedule a conference so any issues may be addressed. My requests for conferences with Judge Duffey and Judge Evans have all been ignored. In the business world, we address problems face-to-face or by telephone-email-fax-or-letter,

resolve them, and move on. I base this request on the following research: "Court errs if court dismisses pro se litigant without instruction of how pleadings are deficient and how to repair pleadings." ***B.Platsky v. CIA***, 953 F.2d 25, 26 28 (2nd Cir. 1991). If this Court feels this case does not apply, all the Court needs to do is tell me why. I am happy to accept constructive criticism and general guidance. I am not looking for the Court to be my attorney.

93. While I will try to do the best possible job on pleadings, my research shows this: "...the case law clearly indicates that the allegations of a *pro se* litigants complaint are to be held to less stringent standards than formal pleadings drafted by lawyers." Justice Scalia in ***Castro v. United States*** 02-6683) 540 U.S. 375 (2003) 290 F.3d 1270, vacated and remanded. ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT (December 15, 2003). "...pro se pleadings should be held to "less stringent standards" than those drafted by attorneys." ***Haines v. Kerner***, 404 U.S. 520 (1971). See also ***Maclin v. Paulson***, 627 F.2d 83, 86 (CA7 1980); ***French v. Heyne***, 547 F.2d 994, 996 (CA7 1976). Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers. ***Jenkins v. McKeithen***, 395 U.S. 411, 421 (1959); ***Pucket v. Cox***, 456 2nd 233. "Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of

a just judgment." *Maty v. Grasselli Chemical Co.*, 303 U.S. 197 (1938).

94. I expressed at the TRO Hearing on July 30, 2009 that I understand pro se pleadings are to be held to a less stringent standard. Judge Duffey took issue with that statement and admonished me indicating that he has some problem with my filings. He did not identify what those problems might be. Judge Duffey should have identified what those problems were so I could address them. I believe his problem with my pleadings is his deep-seated antagonism that I am filing anything. I am happy to address any concerns at any time.

95. At the TRO Hearing, Judge Duffey expressed displeasure with the amount of time required to read the Verified Action. This is quite disconcerting because my legal research on pleadings primarily indicated problems with complaints that were inadequate in terms of detail. As a result, I was extremely detailed in an effort to cover everything. I read cases about each and every "cause of action" and "predicate act," and I attempted to cover the issues addressed in the case law. I also studied and used the Eleventh Circuit Pattern Jury Instructions and the Eleventh Circuit Grand Jury Manual on RICO in addition to hundreds of case law reports.

96. The Verified Action is 499 pages, but the listing of the false statements in the Verified Action filled 380 of those pages – just the lies and suspected lies. The Verified Action would have been 119 pages rather than 499 if I had left out the false statements (or if the Defendants had not made false statements). 72 of the 119 pages constitute the causes of action and "predicate acts." I imagine I put too much in these,

but I had no one to advise me, so I felt I had to cover all the things that came up in the case law that I reviewed. I have been told that the rules do not allow any attorney to advise me, and I have reviewed cases to that effect. So, I am on my own.

97. My research also discovered this: In *Picking v. Pennsylvania Railway*, the plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept." Nevertheless, it was held "Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe Plaintiff's Pleadings without regard to technicalities." *Picking v. Pennsylvania Railway*, 151 F.2d. 240, Third Circuit Court of Appeals.

98. I listed all of the false statements and statements that I believe are false in the Verified Action for a very specific purpose. The Verified Action requires a Verified Answer, and this Court should start to see that everything that I have alleged is true once the Defendants are forced to make statements under oath. I feel that this Court has done a disservice to justice and has violated my rights by telling the Defendants to file Motions to Dismiss and shielding them from filing Answers. This demonstrates extreme bias against me.

99. I learned from my research prior to filing the Verified Action that the Federal Courts have recently been using *Bell Atlantic v. Twombly*, decided by the Supreme Court in 2007, in ruling against inadequate pleadings. I read that Federal Courts across the USA rushed to this new decision to dismiss lawsuits right and left stating that they were not specific enough, didn't contain enough facts, and such. I read that judges across the country have used this new case as a magic wand to

go through their stacks of cases, wiping them out right and left by dismissal. I read that ***Bell Atlantic v Twombly*** has been the number one quoted case when defendants file a motion to dismiss per www.versuslaw.com.

100. So that Judge Duffey and the Defendants cannot claim that my pleadings are somehow defective due to the manner in which the Predicate Acts were presented, I prepared an amendment to the Verified Action as Exhibit B to the Request for Specific Approval to Amend Complaint that I am required to file. I no longer have the right to make filings without Judge Duffey's prior approval.

101. I based my amendment on FRCP Rule 15 (a): "Amendments Before Trial. (1) Amending as a Matter of Course. A party may amend its pleading once as a matter of course: (A) before being served with a responsive pleading; or (B) within 20 days after serving the pleading if a responsive pleading is not allowed and the action is not yet on the trial calendar. (2) Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires."

102. I asked that Judge Duffey grant Leave of Court to allow me to file the amendment under FRCP Rule 15 (a)(1) because an amendment is allowed as a matter of course; I have not been served with a responsive pleading; it is within 20 days after the Verified Action was filed, and the action is not on a trial calendar. In the alternative, I asked for Leave of the Court, which "the court should freely give...when justice so requires." I submitted that justice so requires.

103. Judge Duffey's action at the TRO Hearing on July 30, 2009 in instructing the defendants to file Motions to Dismiss indicates to me that Judge Duffey chooses to ignore the facts. I ask this Court to review the evidence. Read the Tenth Affidavit of William M. Windsor that was filed an hour before the TRO Hearing, which is referenced and incorporated herein as if attached hereto. [Docket #29.] It provides proof of some of the wrongdoing. Much more detail with citations to the evidence is in the Twenty-Fifth Declaration of William M. Windsor – Evans Docket #462, which is referenced and incorporated herein as if attached hereto. Someone needs to care about what these Defendants have done.

104. In ***Maid v. Alcatraz***, Maid did not even plead a cause of action, did not even plead a claim for damages, never amended the Verified Complaint, but was awarded a summary judgment based on tortious interference with false sworn information that claimed damages of less than $100, and Maid received $400,000 from Alcatraz and me, and we lost $1 million in litigation expenses. Compared to this, my Verified Action has to be outstanding.

105. I found this during research so I have felt that I didn't have much to worry about with my complaint: "Following the simple guide of rule 8(f) that all pleadings shall be so construed as to do substantial justice... The federal rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." All pleadings shall be construed to do substantial justice. ***Conley v. Gibson***, 355 U.S. 41 at 48 (1957).

106. Judge Duffey also questioned in the July 30, 2009 TRO Hearing and was critical of me for not having legal counsel. As I had explained previously in filings with this Court, I was unable to find an attorney who was willing to risk retribution from judges and attorneys for filing a lawsuit against a federal judge and a large law firm. I most definitely feel that Judge Duffey has demonstrated a bias against me as a pro se litigant. That was the "appearance of impropriety" that I was shown as a reasonable lay person. Rather than ridicule or chastise me, Judge Duffey should have respected my position and provided just a modicum of support. Above all, he should have cared just a tiny little bit about truth and justice. I do not believe that Judge Duffey cares one iota about truth or justice. I believe he is mean and will do whatever pleases him regardless of the law or facts. Judge Evans doesn't seem mean, but they share the other trait. Someone from the Eleventh Circuit, the Supreme Court, or Congress needs to step in down here and see what is happening. This is a frightening situation.

107. At the TRO Hearing, Judge Duffey said that I didn't even know that I needed to serve the Defendants. (Docket #31 – Transcript to come.) He claimed that his Courtroom Deputy Clerk had to tell me. This is absolutely false, and it demonstrates his pervasive bias and deep-seated antagonism. I have known for at least 40 years that the defendants have to be served in a lawsuit. Judge Duffey complained about the service of the complaint four days after the complaint was filed and three days after the Motion for TRO was filed as process servers in New York and Michigan were handling service there and after service in Atlanta had been partially accomplished.

This was a mere 116 days before service is required under the FRCP. Judge Duffey's attitude and comments were objectionable, and they sent a message loud and clear to the Defendants that he was totally biased against me.

108. At the Temporary Restraining Order Hearing, I believe that Judge Duffey did not adhere to the FRCP in berating me. Judge Duffey took the position that he would not allow any party that had not been served with the complaint to be a party to the TRO Hearing. Those are not the rules. As I read it, FRCP Rule 56 is very specific about the need to notify or attempt to notify the Defendants, and I had been notifying the key people for two weeks. Documentation of all of the notice was available in writing as I advised Judge Duffey during the TRO Hearing, as required by FRCP Rule 56. The proof of the notice to the parties is attached hereto as Exhibit 1. I believe this demonstrates the pervasive bias and deep-seated antagonism of Judge Duffey against me.

109. At the Temporary Restraining Order Hearing, Judge Duffey made major changes to the legal process in this case. This must violate the FRCP and is a violation of my Constitutional rights and rights to Due Process. He entered an order requiring me to have all parties served by August 31. That is 35 days after the complaint was filed. The FRCP provides 120 days to complete service with extensions available for good cause. Judge Duffey entered an order saying the defendants not served by August 31 could not be served thereafter unless he approved. He took 85 days away from me for no good reason other than deep-seated antagonism. I am anxious to serve all of the Defendants as soon as

possible. One of the defendants has disconnected telephones and email addresses that are now disconnected at home and work, and she has apparently moved and changed jobs. I will hire an investigator to try to locate her. I am also concerned with service on the three Canadians because of the actions taken by Maid in MIST-1 to block efforts with Canadian witnesses.

110. At the TRO Hearing, Judge Duffey even removed the requirement for the Defendants to file answers to the complaint. Instead, on his own initiative, he instructed the Defendants to file Motions to Dismiss. He did this having never heard a word or read a word from any of the Defendants. The Defendants filed no affidavits, and no one spoke of the issues at the hearing other than Judge Duffey and me. This indicated to me, and I believe everyone in the courtroom, that Judge Duffey had already decided the case. He claimed to have read the Verified Action, but if he did, an honest judge could not say that there was not a massive amount of evidence before the court as to fraud upon the courts and illegal activities of the Defendants. Judge Duffey didn't just provide indications of pervasive bias against me, he might as well have just come right out and said it. He proved pervasive bias and a complete lack of impartiality.

111. I believe that Judge Duffey was not honest when he said he had read the Verified Action. He made a comment about my business, but the Verified Action clearly explained that Alcatraz is my son's business, and it provided a precise explanation as to my limited involvement in that business. [Docket #31 – transcript to come.] If Judge Duffey had read the Verified Complaint as an impartial

judge, he should have felt that I had established a great deal of wrongdoing and did so under oath with citations to the evidence in the Evans Docket. An impartial judge should have felt that I either had the proof or was the biggest perjuror to ever appear in a courtroom. I have never lied or knowingly made a false statement in this court or in Judge Evans' court. I have never lied in an affidavit or in a court anywhere. I have never been accused of lying in an affidavit or in a court. Judge Duffey should have reported Maid's Attorneys and Judge Evans for professional misconduct as is required by the Code of Judicial Conduct. His failure to do so is also proof of his extreme bias against me as werll as violations of the Code of Judicial Conduct. He has only seen facts from me. There is NO evidence from the Defendants -- none. Yet he has decided I am wrong. There is not a shred of fairness, justice, or impartiality in that. I have asked reasonable lay people whether they feel a judge is biased if he reads about massive dishonesty by a group of people and without hearing a word from the accused, the judge decides the party making the complaint was wrong. It was unanimous: BIASED.

112. At the TRO Hearing, Judge Duffey denied a simple request from me to allow the Canadian Defendants to be served through their Atlanta attorney. In his denial, Judge Duffey's order referred to FRCP Rule 4(f) as the rule I needed to follow, as I already was well aware. FRCP Rule 4(f)(3) actually says "by other means not prohibited by international agreement, as the court orders." That is precisely why I filed the motion. I believe that Judge Duffey's motivations were clear: don't do

anything to help Windsor; Judge Duffey did this because of his deep-seated antagonism for me.

113. Judge Duffey has also ordered on July 30, 2009 that there may be no filings in this Civil Action without his grant of Leave of Court. This is a violation of Due Process Rights, violating my Constitutional Rights to have my motions heard and ruled upon, which denies my meaningful access to the courts.

114. Judge Duffey even branded me as a "litigious plaintiff" in the order dated July 30, 2009 (attached hereto as Exhibit 2). "Litigious" is identified as "tending to engage in lawsuits." (Exhibit 3 hereto.) A "litigious plaintiff" is a person who tends to file lawsuits." Judge Duffey has no basis to say that. He would have no idea what I have and haven't been involved with in terms of litigation unless he has false information obtained from some extra-judicial source. Other than Maid of the Mist's totally improper lawsuit against me, the only lawsuits that I have been involved with personally for the last 15+ years were two legal actions involving real estate (one was an eviction in which my wife and I prevailed but never got paid, and the other was a small claims lawsuit by an attorney trying to buy our home that was dismissed because it was improper under the law). A third lawsuit was filed against me in California by a National Park Service employee who claimed his photograph taken by me at a National Park while he was on duty should not have been used on my personal travel web site. My insurance carrier paid the man $1,000 to go away. My 15-year history as what Judge Duffey describes as a "litigious plaintiff" is that my wife and I sued some people who bounced

their rent checks on our unsold Ohio residence, stiffed us for $30,000 or so, and refused to vacate. Contrary to Judge Duffey's presentation in the order dated July 30, 2009, that I am involved in "three cases," the truth is that I am involved with one issue: Maid of the Mist and their attorneys. Maid sued me wrongfully. I have sued Maid.

115. The "litigious plaintiff" case that Judge Duffey cites in his order is ***Martin-Trigona v. Shaw***, a case in which a litigant had filed over 250 lawsuits and used litigation as a cruel and effective weapon against his enemies, who are more often imagined than real. Trigona has reportedly sued literally hundreds, if not thousands, of attorneys, judges, their spouses, court officials, and other human beings. His lawsuits have been pursued with "persistence, viciousness, and general disregard for decency and logic." He has used legal pleadings to ventilate his contempt and hatred of persons of Jewish heritage and to level accusations which "have often been personal, have often emphasized racial or religious affiliations, and have often involved the members of ... judges' and counsel's families." The purpose, nature and effect of his resort to multiple litigation has been to involve as many persons in as many confounding legal processes as possible. The Second Circuit issued a decision in the ***Martin-Trigona*** case for authority that "[f]ederal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions." ***Procup v. Strickland***, 792 F.2d 1069 (11th Cir.1986) (en banc). Robert procup is serving a life sentence for murder. The case involved an injunction to require him to have an attorney to file

any more claims. He had filed 176 lawsuits as a prisoner plaintiff. These were mostly frivolous, and he failed to comply with rules and procedures. The case speaks only of prisoner lawsuits where there is a big litigious plaintiff issue. The result was that the injunction was vacated, and the case was remanded. So now we have Judge Duffey putting me in the same category as Serial Frivolous Lawsuit Filer Martin-Trigona and murderer Robert Procup. I find this absolutely outrageous and strong proof of the deep-seated bias that Judge Duffey has against me or anyone who would have the audacity to sue a federal judge.

116. I have not impaired the federal court's ability to carry out Article III functions. All I have done is try to find some justice somewhere. This action by Judge Duffey is proof of his deep-seated antagonism for me, a father and grandfather who had the audacity to sue a judge and expose corruption in the judicial and legal system in Atlanta, Georgia. I am outraged by Judge Duffey classifying me as a litigious plaintiff.

117. Judge Duffey has made false statements in his orders. This is a scary situation when you are faced with federal judges who routinely make mistakes about the facts or intentionally make false statements as Judge Evans did.

FALSE STATEMENTS IN JUDGE DUFFEY'S JUNE 8, 2009 ORDER TO QUASH DEPOSITION IN THE "DEPOSITION ACTION" SHOW BIAS

118. The false statements in Judge Duffey's order dated June 8, 2009 in Civil Action No. 1:09-CV-

1543-WSD-WEJ are the following paragraphs 119-121:

119. The Stay Order says: "The subpoena, served by William M. Windsor, seeks Judge Evans' testimony regarding her mental processes and bases for her decisions in the closed case...." [Duffey Docket #14 -- Dec #29 ¶ 29004.]

120. The "closed case" language in the Stay Order is inappropriate. The declarations and motions in the "Deposition Action" and in 1:06-cv-0714-ODE indicate that this is not a "closed case." [Duffey Docket #14 -- Dec #29 ¶ 29010.]

121. The language in the Stay Order regarding the service of the subpoena is inaccurate. The Stay Order says: "Windsor attempted to serve a deposition subpoena on Judge Evans in her chambers...." This, too, is incorrect information improperly claimed by Mr. Huber. [Duffey Docket #14 -- Dec #29 ¶ 29023.] I provided a sworn affidavit from my assistant that told the truth.

FALSE STATEMENTS IN JUDGE DUFFEY'S JULY 30, 2009 ORDER IN THE INSTANT ACTION SHOW BIAS

122. The false or incorrect statements in Judge Duffey's order dated July 30, 2009 in the instant action are the following:

123. "To warrant recusal or disqualification, any bias "must be personal and extrajudicial; it must derive from something other than that which the judge learned by participating in the case. *McWhorter v. City of Birmingham*, 906 F.2d 674, 678 (11th Cor. 1990)." [Docket #22 -- Page 3.] This

case is not the controlling case at the Supreme Court.

124. Judge Duffey cites *Liteky v. United States* (Supreme Court 1994) nearby in his order regarding deep-seated favoritism or antagonism, and then he also uses *McWhorter v. City of Birmingham* (11th Cir, 1990) to claim that bias has to be extrajudicial. Under stare decisis, the Supreme Court trumps the district courts. Therefore, Judge Duffey should have known that *Liteky* (a Supreme Court case from 1993 – 3 years after *McWhorter*) supports my position not Judge Duffey's: "The fact that an opinion held by a judge derives from a source outside judicial proceedings is not a *necessary* condition for 'bias or prejudice' recusal." *Liteky*, 510 U.S. at 554 (emphasis original).

125. In this case, the deep-seated antagonism is so severe that it really doesn't matter where it comes from.

126. "Windsor's Motion to Recuse Judge William S. Duffey [17] is DENIED." I believe Judge Duffey was totally dishonest when he said he shouldn't be recused. He claims calling me "scurrilous and irresponsible" did not demonstrate deep-seated antagonism. (Exhibit 1.) Give me a break! I say that calling me scurrilous and irresponsible demonstrates severely deep-seated antagonism, a complete lack of impartiality. How could a judge be impartial when he has fabricated in his own mind that someone is evil? Judge Duffey wrote that "No objective, reasonable, lay observer fully informed of the facts on which recusal was sought would entertain a significant doubt about the [Court's] impartiality." [Docket #22, Page 4.] I've got a deal for Judge Duffey: We will have a survey

done of random lay people. If the majority say that a judge who called someone "scurrilous and irresponsible" is not likely to be biased in a lawsuit involving that person, I'll dismiss my case and release all of the Defendants forever. If the majority say that a judge who would say that is biased, then re4sign from your position as a judge. You have nothing to lose because you have already issued a federal court order stating that this is how reasonable people would view it.

127. During the Temporary Restraining Order Hearing, I understood Judge Duffey to say that "he" didn't feel it was appropriate to recuse himself. [Docket #31 – transcript to come.] What *Judge Duffey* feels is not the criteria to be used. Case law shows very clearly that it is what a reasonable lay person would feel. Judge Duffey's order says that, but it is crystal clear that Judge Duffey made this ruling because it was what he wanted to do. It was clear to me that Judge Duffey wants to control protecting Judge Evans and making my case go away.

128. Judge Duffey called me "scurrilous and irresponsible" without ever laying eyes on me or learning anything about me. He made that statement without knowing the facts about me and while ignoring the facts that were in front of him.

129. I am not scurrilous. I am not irresponsible. Not even close.

130. I am almost 61 years old. I have been married for 38 years. I am the father of two and the grandfather of two. I worked throughout college and paid most of my school expenses working as a disc jockey and TV announcer before starting the first of my businesses as a junior in college. I earned a BBA

degree in marketing from Texas Tech University where I was named to Who's Who, served as a Student Senator for two years, was the president of various student organizations, was one of three judges on the Faculty-Student Discipline Board, won a number of awards as a speaker and debater, and was involved in a wide variety of activities while working full-time, serving in the Army Reserve, and managing to make decent grades. I joined the Army Reserve during the Viet Nam War and spent six years in the Army Reserve.

131. I have been called "the father of the T-shirt industry" since I started the trade magazine and trade shows for the imprinted T-shirt business before anyone realized it was an industry. As a magazine publisher and trade show producer for most of my career, I have written hundreds of magazine articles, manuals, and books, and I have spoken at trade shows and conferences throughout the US and in Europe and Asia. I have employed thousands of people during my career during which I have owned or served as President or CEO of over 50 companies. I served as President of a $225 million annual revenue company for Goldman Sachs and CEO of a large company for Bain Capital, another mega-billion dollar financial group.

132. I have never murdered anyone. In fact, I have never been arrested or accused of a crime, haven't been guilty of a traffic violation or parking violation in about 10 years, and didn't have a traffic accident in my first 42 years of driving. I have never smoked marijuana or used any drug of any type. I very rarely drink alcoholic beverages. No one in our family (wife, children or grandchildren) have ever been arrested or accused of a crime. None of them

did as well as I have staying out of traffic accidents, but they are all truly wonderful people who are a benefit to society.

133. This lawsuit is the first that I have ever filed pro se, and other than Maid of the Mist, I have had an attorney file only one lawsuit in my behalf in the last 17 years (and that was to evict a tenant who didn't pay the rent). I always show up for jury duty. We pay our bills, and we have an excellent credit record.

134. My wife and I love animals, have a cat that is like a third child, and we regularly donate to cat rescue organizations. I babysit for our granddaughters as often as possible and drive the first-grader's carpool on Thursdays. My wife and I attend Peachtree Presbyterian Church. I rarely use "coarse" language. My mother died of breast cancer 31 years ago, and our family has supported breast cancer as our primary cause. My wife was friends with Susan G. Komen's sister, Nancy, and she was involved in the early days of supporting and helping the Susan G. Komen Foundation. When my father became ill in January 2008, I stayed with him day and night for two months in the hospital and in his final days at a hospice. We never left him alone because his mother dies when he was two, and his father as an entertainer who left him to live on his own throughout his pre-teen and teen years. I am the executor of his small estate.

135. I loan money to people in need and will do just about anything to help a friend. If you ask my friends, former employees, and associates, I believe they will say, contrary to Judge Duffey's claims, that I am extremely reliable and have one of the strongest senses of responsibility that you will

find. I believe they will also say that I have an extreme sense of right and wrong. I go by the rules, and I believe everyone else should.

136. I am not evil, but I will readily admit that I HATE LIARS. I am willing to fight for what's right.

137. I respectfully submit that calling me scurrilous and irresponsible is libel made legal by Judge Duffey's position of immunity. He owes me an apology, and he needs to amend that order to remove the libel. I assure you that it will be used against Alcatraz Media and me by a company that Alcatraz sued for breach of contract because the attorney representing them was in the courtroom as an observer for the Temporary Restraining Order Hearing.

138. Judge Duffey's order of July 30, 2009 says "He can, and will, receive a fair hearing here." [Docket #22, page 5.] Scurrilous and irresponsible says otherwise. The actions and words of Judge Duffey say otherwise. These words are an outrage.

139. I do not believe that Judge Duffey's reason for denying the Motion to Change Venue is sincere, and it doesn't appear to be valid. He cited no case law to support his ruling. If every judge in the Northern District of Georgia violates the Code of Judicial Conduct, the FRCP, the Local Rules, and the Constitution in efforts to protect Judge Evans, there is no way to get a fair trial here. I will have to appeal this.

140. Judge Duffey's order of July 30, 2009 says "...no party shall file any motion or other paper in this case without prior leave of court. The Eleventh Circuit has upheld pre-filing screening restrictions on litigious plaintiffs. *Martin-Trigona v.*

Shaw, 1986 F.2d 1384, 1387 (11th Cir. 1993) (citing cases)." The claim that I am a litigious plaintiff is absolutely false as detailed in paragraphs 115 to 117 above. ***Martin-Trigona v. Shaw*** is not at all applicable here, and Judge Duffey should have known it. All you have to do is read the case.

141. Judge Duffey violated his Oath to be a judge, when he did not uphold the U.S. Constitution in this matter. [28 U.S.C. §453.] Judge Duffey's actions in denying, depriving, and overlooking my legal and Constitutional rights were prejudicial to me. Judge Duffey did not faithfully and impartially discharge and perform all the mandated duties incumbent upon him. I believe Judge Duffey acted without jurisdiction.

142. Judge Duffey has intentionally and effectively denied my Constitutional right to effectively "petition the Government for a redress of grievances". ***U.S. Constitution, Amendment I.***

MY ATTEMPTS TO GET JUDGE DUFFEY OR SOMEONE TO CARE ABOUT THE TRUTH

143. This is a case about the most fundamental legal issues that exist: justice; honesty; fair play; due process; Constitutional protections; the right to a fair trial before an impartial judge; the requirement that witnesses, attorneys, and judges tell the truth; the requirement that witnesses, attorneys, and judges do not violate the laws of the state and the country and commit fraud upon the court. Judge Duffey has branded me "scurrilous and irresponsible and a litigious plaintiff, both of which are absolutely false. Judge Duffey has made false, libelous statements about me to the public. Judge Duffey

wants to protect Judge Evans and deny my rights. I have to wonder whether anyone in the district court in the Northern District of Georgia cares about a complete perversion of the legal system. While it will be very inconvenient to go to another district, I believe that may be the only way that I can get a fair trial.

144. I found these comments very telling: "A free society can exist only to the extent that those charged with enforcing the law respect it themselves. There is no more cruel tyranny than that which is exercised under cover of the law, and with the colors of justice. The law enforcers may themselves offer inducements to transgress if, and only if, the persons so induced were predisposed to violate the law and the offered inducements provided only the opportunity to act on their predispositions. A society cannot long remain free if we permit the law enforcer to offer more than opportunity for transgression." ***U.S. vs. Jannottie***, 673 F.2d 578, 614 (3d Cir. 1982). "Federal public policy, and, indeed, basic social policy, dictate that it is better to let a technical transgressor go free than to allow federal law enforcement officials to manufacture crime that entraps the unwary innocent."

145. Since Federal policy is to let the probably guilty go free rather than risk allowing law enforcement to break the law, it seems to me that it should be federal policy that attorneys and judges who break the law lose any and all protection. Instead, it seems to me that they simply cover up.

146. Now, I believe it is vital to consider the evidence that was before Judge Duffey when he considered the motion to quash the deposition and then the motion for temporary restraining order.

147. To make it absolutely clear: There is not a single piece of evidence and not a single affidavit from anyone with any defendant. They have filed nothing. In either the "Deposition Action" or in the instant civil action.

148. To make it absolutely clear: I have filed EVERYTHING. I spent over 2,000 hours compiling everything. My purpose in doing so was to get all of the evidence into the court record, and I did.

149. Now, let me explain why I did this. I knew that most of the statements in the Verified Complaint of August 29, 2005 were false. I knew Christopher Glynn had committed perjury and that Maid attorneys had filed a false sworn affidavit. A serious illness kept me from working on the case from November 2005 until April 2006. When I read Christopher Glynn's March 14, 2006 sworn affidavit, I knew that almost all of it was false. Then when I heard Glynn lie on the witness stand at the Preliminary Injunction Hearing, I decided that I should document all of the lies and false statements and statements that I felt were false. I felt that the dishonesty would become a bigger issue in the case than the contract dispute and slander. Each time someone gave a deposition or signed an affidavit, I went through the transcript and marked the lies and suspected lies. I put these into a spreadsheet. As time permitted, I began gathering the citations to prove the statements were false. My focus was on using their own testimony to prove their statements false because I know that Alcatraz disputes of Maid statements do not have the finality of when someone from Maid admitted that their statements or the statements of a fellow Maid manager were false. I completed all of this analysis by summary judgment

time in January 2007, though I still had plenty of citations needed to make it perfect. Alcatraz's attorney, Brian Raley, never got it filed. I was sick.

150. When I was informed that Judge Evans ruled against us on summary judgment, I have never been more shocked in my life. It was wrong. It could not be justified based upon the evidence. I had informed Judge Evans on February 2, 2007 at a hearing in her chambers that the Plaintiffs had lied over 400 times and that their attorneys had violated Rule 11 repeatedly.

151. That Judge Evans found us to be "stubbornly litigious" or in "bad faith" or whatever it was that she claimed justified attorney's fees was mind boggling to me. We didn't "expand" the litigation. We dealt with their massive lies and claims, and our focus in discovery was proving their various statements to be false, as we have substantially done.

152. I was totally confident that we would win on appeal, but the Eleventh Circuit relied on the facts quoted by Judge Evans rather than the real facts, so we lost. Judge Evans made up her own set of facts, and many of those facts were blatantly false.

153. I wanted to go to the Supreme Court, but I received legal advice that it would be a waste of money because of the bogus fact problem. So, I bit a hole in my lower lip and agreed to settle out of fear for what Judge Evans would punish us with. I fully intended to pursue this matter as soon as I had time to complete adding my citations and adding more to my master chronology. The settlement agreement between the parties in ***Maid v. Alcatraz*** does not have any releases because I would not provide any because I planned to do what I have now done with

the filing of this lawsuit. I agreed not to appeal to the Supreme Court because we had already run out of time on that, so I gave up absolutely nothing in agreeing not to appeal. Appeals are an action to a higher court, so my new lawsuit is not an appeal. An action for fraud upon the court is an action that is permitted even after entering into a settlement. I have case law on that, because that was the gating issue that I had to resolve before preparing to file this civil action.

154. My first approach was to try to get the case reopened with Judge Evans. On April 24, 2009, I filed a Motion to Reopen [Evans Docket #362], a Motion to Recuse Judge Evans [Evans Docket #361], and a Motion requesting Discovery in April 2009. I filed many of my documents and detailed affidavits so my testimony and the testimony of Alcatraz employees would be in the record. On April 27, 2009, I filed two Motions for Sanctions for all of the discovery abuse and Rule 11 violations. [Evans Docket #363 and 364.] On May 12, 2009, I filed declarations for approximately 750 customers that should prove the claims about customer complaints to be false. [Evans Docket #368.] We sent these to Mr. Carl Hugo Anderson as we obtained them in 2006 and 2007. On May 13, 2009, I filed my proof of all the lies through my Third Declaration [Evans Docket #377], and I had a few mistakes on some missing citations, so I cleaned those up and filed my Third Amended Declaration. On May 13, 2009, my Fifth Declaration [Evans Docket #378] was my attempt to get all of the documents into the court record. I completed that task with my Twenty-Fifth Declaration [Evans Docket #462]. The reason I felt I had to get all of this into the record is because Mr.

Raley had failed to do so. I wanted everything in the record before I filed this civil action, so discovery would be far less important since about everything that I know is in the record for all to see. I prepared a detailed declaration showing Judge Evans' involvement specifically.

155. On May 22, 2009, I subpoenaed Judge Evans for a deposition. I did this after writing to her and receiving no response. [Evans Docket #389.]

156. On May 22, 2009, Judge Evans denied my Motion for recusal, Motion to Reopen Case, and Motions for Sanctions. She declared my Motion for Discovery to be moot. [Evans Docket #390.]

157. On June 4, 2009, I filed Verified Motions for Sanctions against defendants Glynn, Ruddy, and Schul for perjury. [Evans Docket #393, 396, and 299.] I did this because of the law in Georgia that enables you to get orders and judgments set aside based upon perjury. My research revealed that Rule 11 may be sued against litigants as well as their attorneys. ***Procup v. Strickland***, 792 GF.2d 1069 (11th Cir. 1986).

158. My first goal has been to get the judgment set aside. Since the District Attorneys, U.S. Attorney, and FBI have all said they don't have time for perjury or little million dollar deals like this, this was my only option. I couldn't sue them for perjury. I had to get Judge Evans to acknowledge that they had committed perjury. So, I gave her all of the proof on three silver platters. I have requested hearings with many motions, but I have never received a hearing.

159. On June 4, 2009, I filed a Motion to Compel Judge Evans and Maid to produce documents that they each have that I need to be able

to establish that key evidence was withheld from us. [Evans Docket #403.]

160. On June 4, 2009, I filed a Second Motion to Recuse Judge Evans with additional information and justification. [Evans Docket #406.]

161. On June 10, 2009, I filed a motion to disqualify the attorneys in the case because they now have major conflicts with their clients. [Evans Docket #412.] As I see it, the clients may say their attorneys told them to lie, or the attorneys may say their clients told them to file false sworn pleadings.

162. On June 15, 2009, I filed a Motion to Stay. That motion has been ignored thus far. I also filed an appeal with the Eleventh Circuit. [Evans Docket #418.]

163. On June 23, 2009, many of my motions were submitted to Judge Evans for action, but she has done nothing on any of them.

164. In July, I filed replies to various responses filed by Mr. Anderson.

165. On July 10, 2009, I filed a Motion to Strike Twelve Responses of Maid for lack of service. [Evans Docket #456.]

166. On July 15, 2009, Mr. Carl Hugo Anderson filed a Motion for Permanent Injunction to Restrict Future Filings by me.

167. On July 16, 2009, I field an Emergency Motion for Conference. [Evans Docket #464.] Judge Evans has ignored this just as she ignored approximately six motions requesting hearings filed since April.

168. On July 16, 2009, I filed a Verified Complaint of Professional Misconduct pursuant to Local Rule 83.1C. Judge Evans has not set this for hearing as is required by the rules. I also filed my

Twenty-Fifth Declaration that completed the filing of all of my proof. [Evans Docket #462.]

169. I filed several motions in Civil Action No. 1:09-cv-01543-WSD (the "Deposition Action" created by the U.S. Attorney). Judge Duffey took no action on my filings, my request for a conference, and my requests for hearings. My requests for conferences have said: "Because I am pro se, and because of the possibility that the filings of a pro se party might be viewed with skepticism, Windsor respectfully requests a conference with this Court and the attorneys involved. Because I am pro se, and because of his confusion with some Federal Rules of Civil Procedure and the Local Rules, Windsor respectfully requests a conference with this Court and the attorneys involved. Because I have a number of motions pending, Windsor believes it would be beneficial for a conference. Windsor requests that this Motion be considered on an expedited basis. Because Windsor's limitations as a pro se party could place him at an improper disadvantage at any time, Windsor requests that this Motion be considered on an expedited basis."

170. The federal judicial system does not seem at all fair or efficient to me. I imagine the idea of forcing everything to be done on paper is viewed as a time-saver, but the inability to call or write the judge or have a meeting is just beyond my understanding. Businesses do not operate this way. We'd all go out of business very quickly.

171. With Judge Evans ignoring everything and refusing to schedule a conference or a hearing, I began preparing my Verified Action to file in the instant civil action. I had hoped to get things resolved in the original civil action, but I felt I had run out of

time. I understood there to be some statute of limitations issues looming on the horizon, so I was forced to get it filed. I filed it on July 27, 2009. [Docket #1.] Everything that I have filed since has had a very specific purpose.

OVERWHELMING EVIDENCE IGNORED BY JUDGE DUFFEY PROVES DEEP-SEATED ANTAGONISM AND BIAS TOWARD ME

172. Now, the evidence before Judge Duffey is overwhelming and has not been controverted in any way by the Defendants. So, the ultimate proof of extreme bias and a lack of impartiality by Judge Duffey is that he had all of this evidence available to him, and he slammed me anyway. This is an impossibility for anyone with an ounce of decency or honesty, much less impartiality. He is calling for motions to dismiss after having that in front of him. This shows the most extreme bias.

173. Judge Duffey has done this because he doesn't like the idea that anyone would sue a judge like I have.

174. Judge Duffey also doesn't like pro se parties like me.

175. Judge Duffey also doesn't like anyone who files a lot of material like me. I wish there wasn't so much, but there is. I am also extremely detail-oriented and thorough. I approach everything like this logically, and gather everything. I have filed absolutely nothing in bad faith. I have documented everything that I have filed with sworn under penalty of perjury affidavits. I think carefully about everything that I sign. I challenge anyone to

prove that any factual statement that I have made is perjury!

176. I know from reading cases that there are some crazy pro se people out there who file bogus stuff galore. I am not one of those people. I can back up everything. Have a hearing, and I will prove it. Force the Defendants to file their sworn answers to my complaint, and the truth should start to surface.

177. But for now, Judge Duffey had one and only one option: He had to accept my facts as the gospel. He ignored my facts because HE decided to ignore the facts because he had a single piece of evidence to the contrary. That is bias as bad as it comes.

178. Judge Duffey was told: "This is the case of a massive fraud upon the courts and a RICO action in which I have already proven hundreds of predicate acts in the form of Theft by Deception, False Statements to State, Tampering with Evidence, Wire Fraud, Mail Fraud, False Swearing, Perjury, Conspiracy to Defraud the United States, Obstruction of Justice – Witness Tampering, Subornation of Perjury, Violation of Due Process – Deprivation of Rights. There has also been Breach of Legal Duties, Professional Misconduct, Judicial Misconduct, Fraud, and Conspiracy. The evidence is all before the Court in Civil Action No. 1:06-CV-0714-ODE, and I ask the Court to take judicial notice of all of the evidence in that civil action so it is automatically evidence in this civil action." Judge Duffey doesn't seem to care about the facts because he has his own agenda.

179. Judge Duffey's deep-seated antagonism has denied me the most basic right to hear the answers to my legal complaint from the Defendants.

180. Judge Duffey was told this: "Everyone is supposed to tell the truth in court and in all legal proceedings. Judges, attorneys, and witnesses all take oaths to tell the truth, the whole truth, and nothing but the truth. This lawsuit is about a judge, several attorneys, and five people who lied again and again and again and cost Alcatraz Media, LLC and Alcatraz Media, Inc. (jointly "Alcatraz") and me approximately one million dollars in legal fees and litigation expenses, and much more. This lawsuit is about whether the United States District Court for the Northern District of Georgia cares even a little bit about perjury, attorney dishonesty, and judicial dishonesty. This lawsuit is about one of the most basic fundamental rights provided by the Constitution – the right to a fair trial before an impartial judge." This was communicated to Judge Duffey but he chose not to believe it without any evidence to the contrary.

181. Judge Duffey was told this: "Defendants conspired to file a Verified Complaint in MIST-1 in which as many as 46 of the 50 paragraphs were false. Then they filed an amended and updated motion for preliminary injunction in which as many as 18 statements were false (essentially the entire sworn affidavit). They obtained a Preliminary Injunction on the basis of a falsely-claimed document obtained surreptitiously by the daughter of one of Maid's senior managers. Then they claimed damages of a little over $100 from nine adults that they claimed did not pay $11.50 to take a boat ride when they in fact had ridden and did pay Maid. They manufactured a claim against Alcatraz and me, and then lied many hundreds, perhaps thousands of times. Their attorneys were involved from day one,

and they lied, suborned perjury, concealed and used altered documents, and much more. Judge Evans participated as if she was on their payroll. The result was $1,000,000 in litigation costs for Alcatraz and me." We don't make $5 or $6 million a year in profit like Maid does. $1 million represents years of profits for Alcatraz and is more money than I have, and I have no job because I have to work full-time on the legal work.

182. I wonder how Judge Duffey would feel if someone stole a million dollars from him and his child. I wonder how Judge Duffey would feel if a group of people told his child's customers that his son's very legitimate and successful business was an Internet Scam, as Maid did.

183. I have no admissible proof that Judge Evans or someone on her staff was bribed. However, I submit that this must not be dismissed as a possibility. It is possible that someone, not necessarily a defendant, may have bribed Judge Evans or a staff member. Competitors of Alcatraz have been and currently are suspected of illegal activity.

184. This will make other judges mad. I am sorry to do that, but I have to tell it like I see it. I believe that if an honest judge reads my proof of the over 200 false statements in Judge Evan's two orders and looks at my citations, even a judge will have to wonder how a federal judge could make such massive "errors."

185. I do have evidence that is part of the record in MIST-1, attached to Dec #5 – Evans Docket #378, Exhibit #369, that implies that Maid may have had "undue influence" with officials with the Province of Ontario and the State of New York to

obtain billion dollar exclusive monopoly contracts. If Maid saw MIST-1 as a threat to their billion dollar monopoly, I wonder how much they might have been willing to pay to win the lawsuit and protect their billion dollar deal.

186. My position in this lawsuit is that Judge Evans is not an honest judge. I have spoken with several attorneys who indicate to me that Judge Evans has had a practice of handling cases improperly with disregard for evidence and the law. Specifically, I have been told by others that she twists the facts and the law as it pleases her to accomplish whatever she wants. I plan to present evidence from other Judge Evans' cases at trial.

187. Judge Duffey was told: "I allege that the Defendants deliberately planned and carefully executed an unconscionable scheme to obtain judgments and injunctions against Alcatraz and me, to force us to incur significant legal expenses and to obtain money from us. This is detailed in paragraphs 32 to 62 of the Verified Action [Docket #1]." Judge Duffey has apparently chosen to believe that this is not true.

188. Judge Duffey was told this: "Judge Evans' participation in the scheme was to grant a TRO with essentially no bond in complete disregard for the facts; rule against Alcatraz and me on everything – all 40 contested motions; make every decision in the case with the plan to find Alcatraz and me liable regardless of the facts; issue orders with as many as 200 false statements of 'fact.'" Judge Duffey believes this is false with no evidence to base that opinion on except for extra-judicial bias against me for having the audacity to complain about and sue a judge.

189. Judge Duffey has been provided with specific details about the wrongdoing of Judge Evans. The biggest lie that Judge Evans told in her Summary Judgment Order has to do with the central issue in the case – the oral contract for the entire 2005 season. Paragraphs 190 to 258 show the false statements and the proof that the statements are false. I have also included proof about a Better Business Bureau issue that Judge Evans manufactured and used to justify a finding of Tortious Interference. This below is just a sampling of the proof of false statements of Judge Evans, but these completely eliminate Maid's case.

190. **SJ Order Sentence #193: The Court finds nothing in the record to evidence a binding contract between the two parties for the 2005 season or thereafter. [Evans Docket #251.]**

191. This is so false. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8586.)

192. The evidence before the court was overwhelming. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8587.)

193. What in the world must one say other than Carlson told Windsor and Bazzo that Alcatraz had an agreement whereby Alcatraz could sell for the entire 2005 season? That was the agreement. That was stated repeatedly in the Verified Answer, declarations, various pleadings, and in three depositions (Windsor, Alcatraz, and Carolyn Ballard Bazzo). (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8588.)

194. This will be shown further in this analysis. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8589.)

195. SJ Order Sentence #195: The entire exchange between the parties to establish a relationship was as follows. In July 2004, Alcatraz submitted a completed credit application to Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. See Windsor Dep., Ex. 2. In the application, Alcatraz requested a credit line of $10,000 .00 per month from Maid and Alcatraz agreed to pay all amounts owed to Maid when due. See id. Alcatraz provided Maid with credit references and a sample voucher form. See id. On July 27, 2004, Midge Serrianne, Bookkeeper for Maid, wrote to Alcatraz to let it know the credit application had been approved. Windsor Dep., Ex. 3. The letter stated that Maid was "pleased to offer your company credit with the Maid of the Mist" and informed Alcatraz that Maid would bill Alcatraz every fifteen days for vouchers redeemed at the Maid box office. Id. The letter closed with the statement, "'We look forward to serving you and your clients this coming season." Id. [Evans Docket #251.]

196. This is outrageously false. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8596.)

197. This is so false that Windsor cannot help but wonder if Judge Evans or a clerk for Judge Evans may have been improperly influenced to make such statements in this Summary Judgment Order. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8597.)

198. The evidence before the court was overwhelming. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8598.)

199. For starters, the information quoted in the previous sentences in the Summary Judgment

Order referred to what happened in 2004, not the 2005 oral contract. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8599.)

200. Second, the letter of Midge Serrianne has been improperly paraphrased to leave out the most important information. Note what Judge Evans did not include: "We now require a sample of your voucher for approval. We require a carbonized voucher with three parts: one for your tour escort to retain, one for our office to retain, and one for us to mail with your invoice. Your voucher should contain your company name and billing address as well as how many people to expect in your group. Groups will not be accepted on a charge basis without a voucher in triplicate. If we approve your voucher, our terms will be to bill your company every fifteen days. **Please note that we also accept MasterCard and VISA at the time of your tour.** We look forward to serving you and your clients this coming season, and await a copy of our voucher." (emphasis shown was shown in the letter.) [Exhibit 191 to the Fifth Declaration of William M. Windsor.] (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8600.)

201. As shown in the July 27, 2004, the letter CLEARLY had not "essentially established a credit arrangement under which customers could purchase vouchers from Alcatraz and pay Alcatraz directly." The letter states CLEARLY "We now require a sample of your voucher for approval" and "We look forward to serving you and your clients this coming season, and await a copy of our voucher." It is ABSOLUTELY CLEAR that Maid required voucher approval. Alcatraz understood that, and Alcatraz tried 10 times to get a voucher approved

over the next 10 months! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8601.)

202. Third, sentence 195 in Judge Evan's Summary Judgment Order falsely states: "The entire exchange between the parties to establish a relationship was as follows." She then published six sentences claiming these to be the "entire exchange between the parties." The actual "entire exchange" was much longer, and Windsor testified and signed sworn affidavits about the oral contract for the entire 2005 season on many occasions. Judge Evans has falsely and improperly claimed that the dealings between Maid and Alcatraz over the 2005 contract consisted of six sentences pulled out of context and omitting key information. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8602.)

203. SJ Order Sentence #202: There is no evidence in the record showing that Maid granted Alcatraz any kind of enduring or binding right to sell Maid tickets. [Evans Docket #251.]

204. False. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8615.)

205. See Exhibit 24 to the Third Amended Declaration of William M. Windsor. There was a binding oral contract for the entire 2005 season. (Evans Docket #377 – Third Amended Declaration of William M. Windsor ¶ 8616.)

206. SJ Order Sentence #314: The only evidence Alcatraz has submitted to support this counterclaim is the Windsor deposition."

207. False. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8977.)

208. See Exhibit 24 to the Third Amended Declaration of William M. Windsor – Evans Docket #377. There was a binding oral contract, and Maid

breached it. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8978.)

209. And there is no denial of that in admissible evidence before the Court. The overwhelming evidence is in favor of the Defendants. See Deposition of Carolyn Ballard, affidavits of Windsor, deposition of Alcatraz Media, deposition of Windsor, and Verified Answer. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8979.)

210. **SJ Order Sentence #322: Windsor and Carlson spoke for the purpose of ensuring that Alcatraz understood the proper paperwork to submit to Maid for billing purposes once the 2005 season began.**

211. False! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9006.)

212. Windsor spoke to Carlson for the purpose of getting a contract for the 2005 season. Paperwork was ancillary!!! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9007.)

213. Judge Evans has not read all of the testimony and affidavits of Windsor, and Judge Evans has ignored the Verified Answer by Windsor. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9008.)

214. There was an oral contract. It was absolutely precise as to the promises! See Exhibit 24 to the Third Amended Declaration of William M. Windsor – Evans Docket #377. There was an oral contract for the entire 2005 season, and Maid breached that contract. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9009.)

215. Judge Evans has manufactured facts here. The word "in" the season was never ever used. The agreement was for the entire 2005 season, and

this was crystal clear. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9010.)

216. Maid presented no testimony to dispute the sworn testimony of Alcatraz. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9011.)

217. Judge Evans could not have read the depositions in this case! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9012.)

218. **SJ Order Sentence #323: There is no indication from either the context or the words exchanged that Maid intended to establish any kind of binding relationship with Alcatraz for the 2005 season.**

219. False! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9014.)

220. There was an oral contract. It was a binding agreement. It was absolutely precise as to the promises! See Exhibit 24 to the Third Amended Declaration of William M. Windsor – Evans Docket #377. There was an oral contract for the entire 2005 season, and Maid breached that contract. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9015.)

221. Judge Evans has manufactured facts here. The word "in" the season was never ever used. The agreement was for the entire 2005 season, and this was crystal clear. Maid presented no testimony to dispute the sworn testimony of Alcatraz. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9016.)

222. Judge Evans could not have read the depositions in this case! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9017.)

223. **SJ Order Sentence #324: Even if the Court were to construe Carlson's words as a promise**

by Maid, the promise would be at best a vague, indefinite promise that Alcatraz could sell Maid vouchers in the 2005 season, not for the duration of the 2005 season.

224. False! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9019.)

225. **CARLSON HAD NO WORDS!** Carlson did not appear for a deposition. Carlson did not provide an admissible affidavit. Judge Evans said in the Summary Judgment Order that Carlson's affidavit was not considered, and she said at the May 2, 2007 hearing in chambers that Carlson would not be allowed to testify. The only testimony from Carlson was that she told the 30(b)(6) deponent, Ruddy, that she couldn't remember anything from March 2005.

226. There was an oral contract. It was absolutely precise as to the promises! See Exhibit 24 to the Third Amended Declaration of William M. Windsor – Evans Docket #377. There was an oral contract for the entire 2005 season, and Maid breached that contract. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9020.)

227. Judge Evans has manufactured facts here. The word "in" the season was never ever used. The agreement was for the entire 2005 season, and this was crystal clear. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9021.)

228. Maid presented no testimony to dispute the sworn testimony of Alcatraz. Judge Evans could not have read the depositions in this case! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9022.)

229. **SJ Order Sentence #326: Because the Court finds that Alcatraz has submitted no evidence**

showing Maid made a promise to Alcatraz, the Court finds that Alcatraz cannot prove the first required element of promissory estoppel under Georgia law.

230. False! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9028.)

231. There was an oral contract. Alcatraz presented extensive evidence. For specifics and citations, see Exhibit 24 to the Third Amended Declaration of William M. Windsor – Evans Docket #377. There was an oral contract for the entire 2005 season, and Maid breached that contract. Maid presented no testimony to dispute the sworn testimony of Alcatraz. Judge Evans could not have read the depositions in this case! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 9029.)

232. What makes Judge Evans' order perjury is that she knew these statements were false. Judge Evans rejected the Statements of Facts submitted by both Maid and Alcatraz at summary judgment. She stated that she reviewed all of the evidence and identified the facts. She then drafted her own Statement of Facts and said they were undisputed. As shown briefly below, she has committed perjury because many of the so-called "facts" that she used are not anywhere to be found in the evidence!

233. **SJ Order Sentence #17: Unless otherwise noted, the following facts are undisputed.**

234. False. And truly outrageous. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8052.)

235. **SJ Order Sentence #18: The Court derives the facts from the evidence received upon Plaintiffs' application for a preliminary injunction**

along with the parties' pleadings, depositions, and attachments and exhibits.

236. False. The Court could not possibly have considered the evidence before the Court. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8055.)

237. Most of the testimony of the Plaintiffs is false. (See Exhibits #1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of the Third Amended Declaration of William M. Windsor – Evans Docket #377.) (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8056.)

238. SJ Order Sentence #265: First, Maid contends that there were at least nine adult customers who purchased vouchers from Alcatraz and refused to buy Maid tickets at the box office when they learned that Maid would not honor the Alcatraz vouchers.

239. False. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8840.)

240. Outrageous. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8841.)

241. This was proven false months before the summary judgment with sworn affidavits from the customers that Maid falsely and maliciously claimed "didn't purchase tickets." (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8842.)

242. SJ Order Sentence #275: As a result, the Court has reviewed the record independently and finds that Maid suffered financial injury as a result of Alcatraz's actions.

243. False. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8871.)

244. RIDICULOUS. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8872.)

245. This again demonstrates a complete lack of impartiality by Judge Evans. She has invented her own facts! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8873.)

246. Exhibit 4 to the Affidavit of Prejudice is the evidence on the oral contract. Please note that the last three entries on page 8 of Exhibit 4 are "testimony" in the January 22, 2007 affidavit of Sandra Carlson that Judge Evans ruled was not considered and earlier ruled would not be admissible since the witness failed to show up for a deposition that was noticed and/or subpoenaed on multiple occasions. I submit that these statements were structured as literal truths but are actually false. Regardless, Judge Evans said they were not considered in the order. Then she used the information in the order to justify the summary judgment. Judge Evans did this a number of times – entered orders saying affidavits would not be allowed, and then she quoted from them in orders.

247. **SJ Order Sentence #247: Many Alcatraz customers expressed their anger to Maid when Maid declined to accept their Alcatraz vouchers at the Maid box office.**

248. False. (Evans Docket #378 -- Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8782.)

249. There is no such evidence before the Court. No one ever testified to this. It is false. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8783.)

250. Maid breached its valid binding contract. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8784.)

251. **SJ Order Sentence #259: Additionally, the record shows that Windsor filed a complaint with the Better Business Bureau of South Central Ontario that contained disparaging statements about Maid.**

252. False. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8820.)

253. The letters were 100% accurate. NOTHING in these letters could be false, and there was no evidence before the Court to even claim they were anything but factual. Maid never said they were false! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8821.)

254. **SJ Order Sentence #260: Furthermore, Windsor wrote another letter to the Better Business Bureau for a customer, Bruce Lester.**

255. False. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8823.)

256. The letter was 100% accurate and used the information emailed by Mr. Lester. NOTHING in these letters could be false, and there was no evidence before the Court to even claim they were anything but factual. Maid never said they were false! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8824.)

257. **SJ Order Sentence #261: Windsor's complaints, which contained inaccurate and disparaging information as to the relationship between Maid and Alcatraz, may have induced customers who reviewed this complaint not to take a trip to Niagara Falls and not to ride Maid's boats.**

258. False. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8826.)

259. The letters were 100% accurate. NOTHING in these letters could be false, and there

was no evidence before the Court to even claim they were anything but factual. Maid never said they were false! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8827.)

260. There is no evidence whatsoever to indicate that anyone saw these complaints and took any action on them. The evidence is that neither complaint was ever made public. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8828.)

261. Judge Evans has invented false facts! (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8829.)

262. **SJ Order Sentence #262: Based on the foregoing evidence, the Court finds that Alcatraz induced third parties not to enter into or continue a business relationship with Maid.**

263. False. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8831.)

264. Outrageous. (Fifth Declaration of William M. Windsor -- Evans Docket #378 ¶ 8832.)

265. Maid had no legal basis to prevail in MIST-1. Alcatraz and I should have been meritorious.

266. I have overwhelming proof of perjury. I have proof of subornation of perjury. I can prove many violations that prove fraud upon the courts.

267. The Verified Action lists as many as 2,000 lies by MOTM, Steamboat, Glynn, Ruddy, Schul, Carlson, and Berry. Many counts of perjury are proven with the sworn testimony of Glynn, Ruddy, and Schul. Judge Evans and Maid's Attorneys lied hundreds of times. I pulled just some of the easier to prove false sworn testimony, and I filed this in an affidavit prior to the TRO Hearing. [Docket #29.] The complete chronology of important events and legal issues with proof of wrongdoing is provided in the

Twenty-Fifth Declaration of William M. Windsor ("Dec #25" – Evans Docket #462) and the exhibits thereto and the exhibits to the Fifth Declaration of William M. Windsor ("Dec #5" – Evans Docket #378), referenced and incorporated herein as if attached hereto.

268. Judge Duffey was given these facts in my filings with the court: "The August 25, 2005 affidavit of Christopher Glynn ("Glynn") used to support the Verified Complaint was presented as based upon his personal knowledge. Law students probably learn what that means their first week in school. Mr. Russ, Mr. Brown, and Mr. Anderson had Glynn make those statements when they knew they were false, because they had to have a Verified Complaint to be able to later seek a TRO and an injunction." Judge Duffey ignored this. That's unacceptable bias.

269. Judge Duffey was given these facts in my filings with the court: "The March 14, 2006 affidavit of Christopher Glynn was presented as based upon his personal knowledge. Glynn and Mr. Carl Hugo Anderson had documents in their hands at that time that proved Glynn statements to be false. Once again, they had to have a sworn affidavit to be able to seek a TRO and an injunction. " Judge Duffey ignored this. That's unacceptable bias.

270. Judge Duffey was given these facts in my filings with the court: "The May 2, 2006 affidavit of Timothy P. Ruddy stated just the opposite of what documents in the hands of Maid and Maid attorneys proved the facts to be. " Judge Duffey ignored this. That's unacceptable bias.

271. Judge Duffey was given these facts in my filings with the court: "The January 22, 2007

affidavit of Timothy P. Ruddy presented at summary judgment filing stated the opposite of what he testified at the 30(b)(6) deposition and that Judy Berry testified two weeks before in her deposition. " Judge Duffey ignored this. That's unacceptable bias.

272. There is no doubt in my mind that Maid attorneys were very involved in suborning perjury. In *Great Coastal Express vs. IBT*, the Court stated: "Involvement of an attorney, as an officer of the court, in a scheme to suborn perjury would certainly be considered fraud upon the court." *Great Coastal Express vs. IBT*, 675 F.2d 1349 (4th Circuit, 1982).

273. Judge Duffey was given these facts in my filings with the court: "The January 22, 2007 summary judgment filing used a lot of false information – information that had been proven to be false by affidavits, deposition testimony, and documents. Maid's Attorneys had all of this information but never corrected any of this with the court. Maid's Attorneys never advised the court, as required by the Georgia Code of Professional Conduct, that their witnesses had made false statements and had committed perjury. " Judge Duffey ignored this. That's unacceptable bias.

274. Judge Duffey was given these facts in my filings with the court: "The actions of Maid's Attorneys and Judge Evans in this matter bring shame on the legal system and the federal judiciary. The Defendants have conspired to perpetrate a fraud directed squarely at the integrity of the courts' decision-making. " Judge Duffey ignored this. That's unacceptable bias.

275. Judge Evans is a proper party to this Civil Action because (1) Judge Evans, an officer of the court, has committed fraud upon the court in

the District Court and the Eleventh Circuit, and this action is brought against the officers of the court who committed the fraud; (2) Judge Evans has violated my Constitutional rights; (3) Judge Evans has denied due process; (4) I have alleged that Judge Evans has committed criminal violations and Judge Evans is the key member of an enterprise involved in RICO violations; and (5) Judge Evans has been acting in the absence of all jurisdiction.

276. Judge Duffey was given these facts in my filings with the court: "Maid's Attorneys have committed a huge number of violations of the Georgia Code of Professional Conduct, the Local Rules, the Federal Rules of Civil Procedure, and the law. These are detailed in Dec #25 – Evans Docket #462." Judge Duffey ignored this. That's unacceptable bias.

IMMUNITY SHOULD NOT APPLY FOR JUDGE EVANS

277. Mr. Huber argues that *Bolin v. Story* provides a precedent and establishes that judges are protected by absolute judicial immunity and protects judges from injunctive relief as well.

278. *Bolin* is a criminal case in which Bolin was found guilty and sentenced to 48 months in prison. Bolin, pro se, filed an action against every judge in the district but one, the Assistant US Attorney, the US Attorney, and IRS agent, and all the law clerks and staff attorneys. The complaint was that the federal judges do not read anything submitted by pro se litigants.

279. In *Bolin*, the Eleventh Circuit held that judges are "entitled to absolute judicial immunity

from damages for those acts taken while they are acting in their judicial capacity unless they acted in the 'clear absence of all jurisdiction.'" The Eleventh Circuit also said "...this issue is a closer one than it would seem at first blush."

280. Needless to say, the facts in *Bolin* are nothing like the facts in this case, and it was called an issue that was a "**closer one than it would seem at first blush**." I have done months of legal research in an effort to find a case where one party lied and committed perjury many hundreds of times, where the attorneys for the perjurors committed every imaginable form of misconduct, and where the Judge completely perverted the process with as many as 200 false statements in orders, and where the judge refused to consider the complaints of 400 counts of perjury and false sworn pleadings galore. Judge Evans also withheld extremely important documents from Alcatraz and me while falsely claiming they were not relevant. There is only one such case – this one!

281. Mr. Huber also argues that the Public Interest will be served by allowing Judge Evans to do whatever she chooses under the shield of immunity. If you put that to a vote in America, I am quite confident that the public will vote against Mr. Huber and Judge Evans. The Public DESERVES fairness, impartiality, honesty, and judges who do not violate the rules and the laws.

282. Judge Duffey was given these facts in my filings with the court: "I have proven the substantial likelihood of success on the merits. I have asked this Court to take judicial notice of the documents filed in 1:06-CV-0714-ODE, especially

Dec #25. This proof is uncontested. " Judge Duffey ignored this. That's unacceptable bias.

283. Judge Duffey was given these facts in my filings with the court: "When Judge Evans went as far as she went in this case, she went way past the point at which judicial immunity could be justified. I believe the actions of Judge Evans were criminal, and my Verified Action appears to be the only way that the legal or judicial system will ever do anything about it. Unless the legal or judicial system does something about it, my family will remain financially devastated from the "theft" of one million dollars and the loss of years of time that I could have spent earning a living and helping our son stabilize and build his business in the toughest of economic times. " Judge Duffey ignored this. That's unacceptable bias.

284. Our founding fathers did not intend for judges to be able to lie, cheat, and help others "steal" from parties they are sworn to protect through fairness and impartiality.

285. The concept of immunity has nothing to do with excusing judges for illegal activities. It was created to eliminate frivolous complaints against judges. No doubt there is a real need for that, but there is also a need to stop judges from hiding behind immunity to repeatedly commit illegal activities as Judge Evans has done.

286. "We hold these truths to be self-evident, that <u>all men are created equal</u>, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, <u>deriving their just powers from the consent of the governed</u>.

That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness." The *Declaration of Independence*, second paragraph, July 4, 1776.

287. All men are created equal unless there is a judge involved. That's not what the *Declaration of Independence* says. Judge Evans deserves no rights any greater than mine. I submit to this Court that this "Form of Government" that allows judges to wreak havoc on litigants has "becomes destructive of these ends," and "it is" my right and the right of this Court "the Right of the People to alter or to abolish it, and to institute new Government," Abolish immunity in egregious cases such as this, and do not let Judge Evans avoid answering for her illegal acts.

288. I respectfully submit that a judge should not be given immunity with facts like those in this case where the judge violated criminal laws as part of a scheme to commit fraud upon the courts and in essence "steal" One Million Dollars from Alcatraz and me. I respectfully submit that a judge should not be given immunity in a RICO action in which the judge is named as one of two participants. If the Court eliminates Judge Evans, it seems that I might lose on part of my RICO claim because I can't prove there were two people involved. I respectfully submit that a judge should not be given immunity when the judge put as many as 200 false statements in orders that the Eleventh Circuit then accepted as true when they ruled against Alcatraz and me.

289. I can find no case that indicates that the Court of Appeals for the Eleventh Circuit has held that federal judges are entitled to absolute immunity from suits for criminal acts or RICO committed by a judge in her judicial capacity. I have looked. If Mr. Huber cannot cite such a case, then I believe his other arguments and cases involving immunity are irrelevant.

290. Judge Evans committed significant wrongdoing herself as is proven in three orders and two hearing transcripts. [Evans Docket #'s 10, 25, 26, 33, and 251.]

291. In an action for Fraud Upon the Courts by judicial officers including the judge, there can be no immunity for the judicial officer. FRCP Rule 60 entitles me to file the Verified Action and requires this court to entertain this independent action to relieve me from a judgment, order, or proceeding due to fraud upon the court. Rule 60 says nothing about granting immunity to the primary officer of one of the two courts affected by the fraud. I do not believe that the Defendants can cite any case based upon similar facts that says immunity is allowed in a case such as this.

292. I feel that Evans has violated my Constitutional rights: 1st Amendment Right to petition; 5th Amendment right to due process; 6th Amendment right to a fair trial; 7th Amendment right to a trial by jury; 9th Amendment right to fundamental rights; 14th Amendment right to due process.

293. Judges do not have immunity from criminal acts. I submit that Judge Evans has violated criminal laws. I have sued Judge Evans for RICO, and I have identified a number of predicate

criminal acts, including perjury, making false statements, conspiracy to defraud the United States, Deprivation of Rights, Deprivation of Civil Rights, and Subornation of Perjury. Exhibit #5 is a report on the case of Judge Mary Waterstone in Michigan who suborned perjury and has been charged as well as some other reports of judges found guilty of criminal acts. With cases like these, Judge Duffey has no right to criticize my actions.

294. Under Georgia law and the court's inherent powers, the orders and judgment in MIST-1 can be set aside due to perjury.

295. Judge Evans has blocked our legal right to this relief by ignoring the perjury and refusing to have it considered. Now it seems that Judge Duffey is trying to do the same thing.

296. Judge Evans has ignored the perjury in MIST-1. Judge Evans has issued orders and the judgment based almost entirely upon perjured testimony. The perjury has been brought to Judge Evans attention on several occasions, and she has done absolutely nothing about it. Now it seems that Judge Duffey is trying to do the same thing. Judge Evans' actions served to invite and promote the perjury because she did absolutely nothing but turn a blind eye and a deaf ear to the reports of perjury and the record before the Court that provides clear and absolute proof of the hundreds of counts of perjury. The Defendants have not even attempted to dispute the perjury with a single solitary affidavit. That is because they cannot dispute the facts that are clearly before the Court in MIST-1.

297. Courts have repeatedly held that positive proof of the partiality of a judge is not a requirement in recusal, only the appearance of

partiality.

298. Should a judge not disqualify himself, then the judge is violation of the Due Process Clause of the U.S. Constitution. *United States v. Sciuto*, 521 F.2d 842, 845 (7th Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause.")

299. Judge Evans should have disqualified herself, and she has violated my rights to due process.

300. Judge Duffey should have disqualified himself, and he has violated my rights to due process.

JUDGE DUFFEY IS SEVERELY BIASED AGAINST ME

301. The United States Constitution guarantees an unbiased Judge who will always provide litigants with full protection of ALL RIGHTS. Judge Duffey is terminally biased for Judge Evans and terminally biased against me.

302. When a jury hears what happened in this case, I will prevail at trial.

303. This motion, affidavit, certificate of good faith, and memorandum of authorities meet the requirements for a 28 U.S.C. 144 motion.

304. This Affidavit of Prejudice states the facts and the reasons for the belief that bias and prejudice exist. The reasons for the belief are material and stated with particularity.

305. This affidavit meets the time requirement of 28 U.S.C. 144. Section 144 says that a motion for recusal "shall be filed not less than ten days before the beginning of the term [session] at

which the proceeding is to be heard." With the abolition of terms of court in 1963, I have read that this specific provision no longer applies. I am filing this within a week after I filed the original complaint, and this would have been filed the day after the TRO hearing if the clerks of the court had not refused to accept it.

306. This affidavit is accompanied by a "certificate of counsel of record." As I am the only person of record and I am a pro se Plaintiff, the certificate is from me, and it is made in good faith.

307. I am confident that a reasonable lay person would conclude that Judge Duffey does not have the impartiality that is required for this job just based upon his "scurrilous and irresponsible" assault on me. I have commissioned a survey to be done of random people for the purpose of proving just this.

308. When you add everything else that Judge Duffey has done, this has to be one of the most extreme cases of bias ever.

309. This case is just a week old. The burden placed on a new judge is nothing compared to the burden placed on me in the violation of my Constitutional and civil rights and the law if Judge Duffey again summarily dismisses a motion for recusal.

310. I submit that this is a case of pervasive bias. Bias has been "present throughout." This bias existed before this civil action began.

311. Judge Duffey has established a position in this proceeding that I am wrong and that my case does not matter.

312. How can a judge hear that one party has lied hundreds of times and do nothing? The lies,

false sworn pleadings, false sworn affidavits, false court testimony, and false deposition testimony are detailed in William M. Windsor's Third Amended Declaration in Support of Motion to Reopen Case [Duffey Docket #377], the Fifth Declaration of William M. Windsor [Duffey Docket #378], and the Twenty-Fifth Declaration of William M. Windsor [Duffey Docket #462] which are referenced and incorporated herein for all purposes as if attached hereto. This demonstrates a lack of impartiality by Judge Duffey.

313. **I have not been treated fairly by Judge Duffey.**

314. The bias and antagonism of Judge Duffey unfairly prejudice me in this civil action.

315. Judge Duffey has an unfavorable opinion about me that is wrongful and inappropriate. It is excessive in degree.

316. I don't know of many words that are much worse than scurrilous. **Scurrilous conveys deep-seated antagonism**. Calling someone evil is about as bad a statement as anyone can say about another human being.

317. All some judge needs to do is have a hearing to hear some facts. Judge Duffey should have scheduled a Preliminary Injunction Hearing as I requested. He showed me that his bias did not even allow that thought to cross his mind.

FURTHER SAITH AFFIANT NOT.

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of August 2009.

/s_____
William M. Windsor

Sworn to before me, this 3rd day of August, 2009.

/s_____
Michelle Thornton
Notary Public

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-2027
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

28 USC 144 CERTIFICATE
THAT THIS MOTION IS FILED IN GOOD FAITH

Plaintiff William M. Windsor, pro se, hereby certifies that this motion and the Affidavit of

Prejudice are both filed in good faith. All facts are true and correct.

I realize that this is normally a certificate signed by "counsel of record", but I am pro se, so I am my own counsel, and I am providing this to meet the requirements.

I attempted to get an attorney to also provide a certificate. I contacted the attorneys whom I know (except those with the firm of Raley & Sandifer as we terminated services with them). Each attorney that I was able to reach advised me that they either had a conflict or did not want to risk retribution from a federal judge. I contacted legal Aid, but they only handle poor people. I contacted the ACLU, but they have a six week waiting list.

The law reads "counsel of record," so I ask that my Certificate be all that is required.

Respectfully submitted, this 4th day of August 2009.

/s/_____

William M. Windsor
Pro Se

3924 Lower Roswell Road
Marietta, GA 30068
Telephone: 770-578-1094
Facsimile: 770-578-1057
Email: bill@billwindsor.com

APPEAL DOC.NO.

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

WILLIAM M. WINDSOR, PLAINTIFF AND

PETITIONER,

v.

UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY, ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS, AND DOES 1 TO 100, Defendants and Respondents,

And JUDGE WILLIAM S. DUFFEY, Respondent.

Appeal from the United States District Court
for the Northern District of Georgia, Atlanta
Division
Civil Action No. 1:09-CV-02027-WSD
The Honorable William S. Duffey

WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE WILLIAM S. DUFFEY

William M. Windsor
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Email: bill@billwindsor.com

PRO SE FOR PLAINTIFF/PETITIONER,
WILLIAM M. WINDSOR

You are "**scurrilous and irresponsible.**"

This is what Judge William S. Duffey said **before** he met Windsor and **before** Windsor was a Plaintiff in his court.

"I have called you evil and irresponsible, but I can be fair and impartial.

"Motion to Recuse is denied. Motion for Change of Venue is denied. Motion for TRO is denied. Motion for Special Service denied. Motion for Leave denied. Defendants do not have to file answers. Defendants are instructed to file motions to dismiss. Service must be completed in 34 days rather than the 120 days allowed by law. No other motions may be filed without my approval."

This is essentially what Judge William S. Duffey said after he met Windsor two days after Windsor filed a Verified Action against the Defendants and the case was assigned to him. The Defendants never even spoke at the TRO Hearing other than to introduce themselves.

Reasonable, honest people must say that the appearance of Judge William S. Duffey's impartiality must be questioned.

STATEMENT OF RELIEF SOUGHT

1. Petitioner, William M. Windsor, Plaintiff in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"), captioned as ***William M. Windsor v. United States of America, et al***, in the United States District Court for the Northern District of Georgia, hereby applies, pursuant to the provisions of 28 U.S.C. 1651 and Rule 21(a) of the Federal Rules of Appellate Procedure, for a writ of mandamus to be issued by this court directing the Honorable William

S. Duffey, Judge of the United States District Court for the Northern District of Georgia ("Judge Duffey"), to vacate his order denying Windsor's motion for recusal and disqualify himself from presiding in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"), and other relief. [First Mandamus Affidavit of William M. Windsor ("M-Aff #1"), ¶1.]

2. Recusal is justified on grounds that Judge Duffey was disqualified under 28 U.S.C. 455 at the time he ruled and entered an order denying Windsor's motions on July 30, 2009 and when he ruled denying Windsor's Motion for Temporary Restraining Order on July 30, 2009 (reduced to an order on August 4, 2009 – MIST-2 Docket #32). Judge Duffey should be disqualified pursuant to 28 U.S.C. 144 as well. Judge Duffey's participation in MIST-2 exhibits the strong appearance of impropriety for which relief through disqualification is warranted. Windsor further prays that the instant case be reassigned to a judge who is not associated with Defendant Judge Orinda D. Evans ("Judge Evans"). [M-Aff #1, ¶2.]

ORDER CHALLENGED

3. Petitioner Windsor is the Plaintiff in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"). Windsor 's first motion to recuse was denied on July 30, 2009. [Exhibit A] [MIST-2 Docket #22.] [M-Aff #1, ¶3.]

4. Windsor's Emergency Motion to Recuse (second motion to recuse) has not been addressed by Judge Duffey -- filed August 4, 2009. [Exhibit B] [MIST-2 Docket #36.] [M-Aff #1, ¶4.]

5. Judge Duffey should have recused himself in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"). [M-Aff #1, ¶5.]

6. Windsor 's rights under the U.S. Constitution and its amendments have been severely abridged in MIST-2. [M-Aff #1, ¶6.]

7. Judge Duffey appears to be guided along a path that will wrongly deny Windsor any opportunity to present the merits of his case and that will punish Windsor for having the audacity to sue a federal judge. [M-Aff #1, ¶7.]

8. Windsor's legal and Constitutional rights were violated when Judge Duffey was assigned as the judge. The system of using only one judge to hear all pro se cases is unfair and violates the rights of repeat pro se parties.[M-Aff #1, ¶8.]

9. At the risk that honest judges with the Eleventh Circuit will write him off as another crazy pro se party, Windsor is at wit's end. He is a retired corporate CEO, an honest law-abiding citizen who has been abused beyond belief, and he has to address the real issue. (Windsor isn't scurrilous or irresponsible; see Affidavit of Prejudice ¶ 128-136, part of Exhibit B hereto.) [M-Aff #1, ¶9.]

10. The real issue is the dishonesty of at least two judges in the U.S. District Court for the Northern District of Georgia, Judge Evans and Judge Duffey. The rule of law, the most fundamental principles of morality, ethics, rights, fairness, and impartiality seem to mean nothing to these judges when it comes to twisting the law, rules, and facts to accomplish personal desires and covering up the wrongs of fellow members of the Bar

and Bench. Violations by Judge Evans are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2609-2682 of MIST-2 Doc. 1. [M-Aff #1, ¶10.]

11. Windsor has charged Maid's attorneys -- Hawkins & Parnell, Mr. Carl Hugo Anderson, Phillips Lytle, Marc W. Brown, and Mr. Arthur Russ; and Judge Orinda D. Evans with Professional Misconduct and fraud upon the court. Windsor has charged Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. ("Maid"), Christopher Glynn ("Glynn"), Timothy P. Ruddy ("Ruddy"), Robert J. Schul ("Schul"), Sandra Carlson ("Carlson"), and Judith L. Berry ("Berry") with perjury and many other charges in a conspiracy to commit fraud on the court. Windsor charges all with violations of the RICO Acts. Violations by Maid attorneys are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2584-2608 of MIST-2 Doc. 1. Violations by Maid and its managers are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2683-2691 of MIST-2 Doc. 1. The causes of action against the Defendants are listed in ¶¶ 2692-3018 in MIST-2 Doc. 33 (amendment to Doc. 1.) [M-Aff #1, ¶11.]

12. The big question is: Does anyone really care? [M-Aff #1, ¶12.]

13. Does anyone really care if parties, attorneys, and judges lie, cheat, and break all the rules? [M-Aff #1, ¶13.]

14. The horrendous reality is that many people lie in court, and the judges, attorneys, courts, and governments do little or nothing about it. Perjury is a crime that is committed every day in every courtroom all across the country and goes

unpunished. As a result, it is no wonder that parties, their attorneys, and judges feel they can lie hundreds of times in a case and get away with it. It is the responsibility of a court to brand these conspirators as liars and find these conspirators guilty of professional misconduct. If the courts would disbar all the cheaters, send all the liars to jail, and remove all of the dishonest judges, Windsor believes we would see significant improvement in our legal system, far fewer cases, simpler cases, and the system would find the guilty to be guilty rather than reward the best liars and cheaters by finding them to be not guilty.[M-Aff #1, ¶14.]

15. The Complaint that Windsor filed in MIST-2 is the story of dishonesty on steroids by officers of the court. [M-Aff #1, ¶15.]

16. Windsor has to be honest and say he currently doesn't know if anyone really cares. Windsor's belief has become that many people are liars, and parties to lawsuits, their dishonest attorneys, and judges are among the worst. [M-Aff #1,¶16.]

17. Judge Evans seems to care less if attorneys and litigants commit massive perjury in her courtroom. She made more false statements than just about anyone in MIST-1. The truth seems meaningless to Judge Evans. [M-Aff #1, ¶17.]

18. Judge Duffey seems to care little about truth. Judge Duffey had an opportunity to act on the wrongdoing in this case, but he neglected his duty and began making false statements in orders. [M-Aff #1, ¶18.]

19. Basic questions for those considering this Petition are the following:

20. Should a court allow perjury by a party? How much perjury does it take to become objectionable? What about 450 counts of perjury? [M-Aff #1, ¶20.]

21. Should a court allow attorneys to commit perjury by submitting false statements of fact to the court? How many false statements from attorneys does it take to become objectionable? What about 350 counts of perjury? [M-Aff #1, ¶21.]

22. Should a court allow attorneys to suborn perjury? How many instances of suborning perjury from an attorney does it take to become objectionable? What about hundreds? [M-Aff #1, ¶22.]

23. Should a court allow attorneys to commit violations of the State Bar of Georgia Code of Professional Conduct? How many violations from an attorney does it take to become objectionable? What about hundreds? [M-Aff #1, ¶23.]

24. Should a court allow attorneys to routinely violate the Federal Rules of Civil Procedure ("FRCP")? How many violations from an attorney does it take to become objectionable? What about dozens? [M-Aff #1, ¶24.]

25. Should a court allow attorneys to routinely violate the laws of the state? How many laws must be violated by an attorney to become objectionable? What about nine laws violated repeatedly over three years? [M-Aff #1, ¶25.]

26. Should a court allow attorneys to routinely violate the laws of the USA? How many laws must be violated by an attorney to become objectionable? What about eight laws violated repeatedly over three years? [M-Aff #1, ¶26.]

27. Should the judicial system allow judges to commit perjury and obstruction of justice? How much perjury by a judge does it take to become objectionable? What about 250 counts of perjury? [M-Aff #1, ¶27.]

28. Should a judge be allowed to completely and totally ignore the complaints of one party that the other party and their attorneys have committed massive misconduct as described above? [M-Aff #1, ¶28.]

29. What should be done to attorneys and judges who commit such incredible misconduct? Shouldn't these attorneys be disbarred, and shouldn't this judge be impeached? [M-Aff #1, ¶29.]

30. How do you compensate a litigant who had over $1,000,000 stolen from him in the guise of a lawsuit in which this professional misconduct completely and totally perverted the legal system? [M-Aff #1, ¶30.]

31. How in the world can a judge even pretend to stand for truth and justice and decency if he/she allows things like this to happen? [M-Aff #1, ¶31.]

32. All of the above happened in MIST-1, and judicial abuse has begun in MIST-2. [M-Aff #1, ¶32.]

33. Windsor has the evidence if someone will just care. [M-Aff #1, ¶33.]

34. Judge Duffey was presented with the evidence, and without a word of testimony or a piece of evidence from the Defendants, he decided that Windsor was wrong. This proves bias. [M-Aff #1¶34.]

35. For many years, Windsor has felt that our legal system was broken. He thought it was the

attorneys. He now believes that judges may be just as dishonest. This is beyond shocking. Windsor hasn't been in court that many times in his life, but prior to Atlanta, he always felt that the judges were fair and were focused on the law. [M-Aff #1, ¶35.]

36. Windsor keeps hoping that Allen Funt will pop out from behind a door and say "Smile, you're on Candid Camera," or Ashton Kutcher will call on the cell phone to say "You've been Punk'd." This is like a horrible nightmare that has consumed four years of Windsor's life and a million dollars. [M-Aff #1, ¶36.]

37. "We hold these truths to be self-evident, that <u>all men are created equal</u>, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, <u>deriving their just powers from the consent of the governed</u>. That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness." The *Declaration of Independence*, ¶2, July 4, 1776. [M-Aff #1 ¶37.]

38. All men are created equal unless Judge Evans or Judge Duffey are involved. That's not what the *Declaration of Independence* says. These judges deserve no rights any greater than Windsor's. Windsor submits to this Court that this "Form of Government" that allows judges to wreak havoc on litigants has "becomes destructive of these ends," and "it is" his right and the right of this Court "the

Right of the People to alter or to abolish it, and to institute new Government." Please do not allow egregious abuse such as this. [M-Aff #1, ¶38.]

FACTUAL BACKGROUND

39. On June 3, 2009, the U.S. Attorney representing Judge Evans filed a motion to quash a subpoena for the deposition of Judge Evans in Civil Action No. 1:06-CV-00714-ODE ("MIST-1"). [M-Aff #1, ¶39.]

40. The motion was referred to Judge Duffey, and this created the "Deposition Action." [Deposition Action Docket #1.] [M-Aff #1, ¶40.]

41. Judge Duffey had never had any dealings with Windsor prior to the referral of that motion. Windsor had never heard the name "Judge William S. Duffey" until on or about June 3, 2009. There was no conference held, and there was no hearing held, despite Windsor's motions asking for both. [M-Aff #1, ¶41.]

42. On June 8, 2009, Judge Duffey stayed the properly subpoenaed deposition. [Deposition Action Docket #4.] (Exhibit C.) [M-Aff #1, ¶42.]

43. Judge Duffey made a number of incorrect statements in the order dated June 8, 2009. (See Affidavit of Prejudice ¶ 34-67 and 118-121, part of Exhibit B hereto.) The order was totally pro-Judge Evans, and it demonstrates that the bias existed. [M-Aff #1, ¶43.]

44. On June 8, 2009, Windsor filed a Notice of Appearance pro se. [Deposition Action Docket #5.] Windsor also filed a Motion for Hearing. [Deposition Action Docket #6.] [M-Aff #1, ¶44.]

45. On June 10, 2009, the U.S. Attorney supplemented his motion to quash. [Deposition Action Docket #8.] [M-Aff #1, ¶45.]

46. On June 15, 2009, Windsor filed a Motion for Conference. [Deposition Action Docket #13.] [M-Aff #1, ¶46.]

47. On June 18, 2009, Windsor filed a Motion for Reconsideration of the Order Staying Case and the Twenty-Ninth Declaration of William M. Windsor (Dec #29). [Deposition Action Docket #15.] This was filed to note errors in Judge Duffey's order. [M-Aff #1, ¶47.]

48. On June 22, 2009, Windsor filed a Motion to Disqualify Judge Evans with the Thirty-Second Declaration of William M. Windsor ("Dec #32"). [Deposition Action Docket #17.] [M-Aff #1, ¶48.]

49. On June 22, 2009, Windsor filed a Response to the Motion to Quash and Dec #35. [Deposition Action Docket #21.] [M-Aff #1, ¶49.]

50. On June 22, 2009, Windsor also filed a Response to the Motion to Supplement Motion to Quash and Dec #34.[Dep Action Doc #24].[M-Aff #1, ¶50.]

51. On June 30, 2009, the Order to Quash the Deposition of Judge Evans was issued by Judge Duffey. [Deposition Action Docket #32.] (Exhibit D.) The order described Windsor as "scurrilous and irresponsible." This was written by a man who did not know Windsor, had never met Windsor, and who made such a statement and decision based solely on Windsor's uncontroverted affidavits. In 2009, there have been zero (0) affidavits filed by any of the Defendants in MIST-1, the Deposition Action, or MIST-2. Windsor's testimony and evidence stands

alone. The only explanation for this response is that Judge Duffey was pre-disposed to bias against Windsor because he had the audacity to try to depose Judge Evans to obtain information that only Judge Evans had that Windsor needed to pursue his claims against various of the Defendants. [M-Aff #1, ¶51.]

52. On July 10, 2009, Windsor filed a Motion for Reconsideration and the Thirty-Seventh Declaration of William M. Windsor ("Dec #37") [Deposition Action Docket #34] and a Motion for Change of Venue and the Forty-Sixth Declaration of William M. Windsor ("Dec #46") [Deposition Action Docket #36]. The only affidavits filed in the Deposition Action Docket were filed by Windsor, so the only facts before Judge Duffey were the facts presented by Windsor. This makes the "scurrilous and irresponsible" slur even more antagonistic and improper. [M-Aff #1, ¶52.]

53. On July 27, 2009, Windsor filed a complaint to begin Civil Action No. 1:09-CV-02027-WSD ("MIST-2"). [MIST-2 Docket #1.] [M-Aff #1, ¶53.]

54. On the morning of July 28, 2009, Windsor filed a Motion for Temporary Restraining Order. [MIST-2 Docket #11.] Windsor asked for an immediate hearing. Judge Duffey did not set the hearing until almost 3 business days later on July 30, 2009 at 3:00 pm. The failure to hear this TRO request promptly shows bias. So much for immediate irreparable harm. [M-Aff #1, ¶54.]

55. On July 28, 2009, when Windsor was told by Anthony of the District Court Clerk's Office that Judge Duffey would be presiding in MIST-2, Windsor immediately prepared a Motion to Recuse

Judge Duffey and a Motion for Change of Venue, and he returned later to file those. [MIST-2 Docket #15 and 17.] [M-Aff #1, ¶55.]

56. On July 30, 2009, the TRO Hearing was held. Judge Duffey denied the motion. [MIST-2 Docket #31.] Judge Duffey distributed an order on Windsor's motions regarding service of process on Canadian defendants, waiver of representation, motion to change venue, and motion to recuse. All were denied. [MIST-2 Docket #22.] Judge Duffey was antagonistic and biased in the hearing. Details of this are provided in the Affidavit of Prejudice ¶ 81-117, part of Exhibit B hereto, and will be shown in the Transcript of the Temporary Restraining Order Hearing. False statements in the July 30, 2009 order are listed in the Affidavit of Prejudice ¶ 122-142, part of Exhibit B hereto. [M-Aff #1, ¶56.]

57. On August 4, 2009, Windsor filed an Emergency Motion to Recuse Judge Duffey. Windsor advised Judge Duffey that he would seek a Writ of Mandamus if there was not a prompt response. This motion appears on the MIST-2 Docket as a "Motion for Leave" because Judge Duffey ordered that Windsor must first submit proposed motions to him. This Request and Motion are attached as Exhibit B. [MIST-2 Docket #36.] [M-Aff #1, ¶57.]

58. As part of the factual background, it is important to understand what took place before Judge Duffey entered the picture. [M-Aff #1, ¶58.]

59. In MIST-1, several attorneys, Judge Evans, and five people lied again and again and again and cost Windsor, Alcatraz Media, LLC and Alcatraz Media, Inc. (jointly "Alcatraz") approximately one million dollars in legal fees and litigation expenses and much more. [M-Aff #1, ¶59.]

60. Four Maid managers are guilty of hundreds of counts of perjury and have committed a conspiracy to commit fraud. Glynn, Ruddy, Schul, and Carlson have lied repeatedly under oath and have conspired to commit fraud against Windsor and Alcatraz. MIST-1 began in August 2005 with a sworn Verified Complaint that consisted of perjured testimony by Glynn. Windsor has detailed that as many as 46 of the 50 paragraphs were false or incorrect and/or not based upon the personal knowledge of Glynn as he swore. The lies, false sworn pleadings, false pleadings, and discovery abuse continued throughout MIST-1. This deprived Windsor of any opportunity for a fair trial. The dishonesty of Maid and Maid's attorneys was compounded by the "mistakes" of Judge Evans, who decided on day one that she was going to find in favor of Maid, withheld documents from Windsor and Alcatraz, violated the legal rights of Windsor and Alcatraz by denying the most basic discovery, and acted without the impartiality required of a judge. (See MIST-1 Doc. 377, Exhibits 9 and 27.) [M-Aff #1, ¶60.]

61. Judge Evans made as many as 200 false statements in the Preliminary Injunction Order and Summary Judgment Order. (See MIST-1 Doc. 377 – Exhibits 9 and 22 for each false statement and the proof of the falsity; see Exhibit B, ¶¶ 68-69, 190-264.) [M-Aff #1, ¶61.]

62. Maid's managers and attorney Mr. Carl Hugo Anderson lied many hundreds of times. (See MIST-1 Doc. 377 – Exhibits 1-8, 10-21 for each false statement and the proof of the falsity.) [M-Aff #1, ¶62.]

63. Maid attorneys filed false sworn

pleadings, false pleadings, committed perjury, suborned perjury, violated numerous rules of the Code of Professional Conduct, and violated a number of laws. (See MIST-1 Doc. 474.) [M-Aff #1, ¶63.]

64. Details of the wrongs ignored by Judge Duffey are provided in MIST2-Doc.1 and the Affidavit of Prejudice that is part of Exhibit B hereto. [M-Aff #1, ¶64.]

65. To understand why Windsor has compiled this proof and has taken each legal step that he has taken, see Exhibit B hereto, Affidavit of Perjury ¶70-171. This explanation should help the Eleventh Circuit understand why Windsor has filed many motions and generated a lot of paper. Windsor is pro se, has no legal help whatsoever, and he is doing the best he can. Windsor has spent months conducting legal research, and he believes that Judge Evans is most definitely a proper party to MIST-2. Windsor explains why he feels Judge Evans does not qualify for immunity in Exhibit B hereto, ¶277-300. [M-Aff #1, ¶65.]

JUDGE DUFFEY IS HOPELESSLY BIASED AGAINST WINDSOR.

66. There is not a chance in the world that Windsor will get a fair trial with Judge Duffey. He is hopelessly biased against Windsor and for Judge Evans. He doesn't even pretend to hide his bias; it is plain to see. [M-Aff #1, ¶66.]

67. Judge Duffey is obviously friends with Judge Evans. Their chambers are on the same floor; their courtrooms are side-by-side. Windsor hoped that Judge Duffey's commitment to his oath as a judge would be more important to him than his

friendship with Judge Evans, but it is clear to Windsor that his prejudice for Judge Evans and other judges is overwhelming to him. [M-Aff #1, ¶67.]

68. All Windsor wants is to have someone fair and impartial with an open mind to listen to the facts and review as much of the evidence as is needed to prove each of his claims. It is obvious to Windsor that Judge Duffey doesn't care about the facts and doesn't want to consider the facts. [M-Aff #1, ¶68.]

69. When Windsor informed a prospective attorney that he had drawn Judge Duffey to review Judge Evans' Motion to Quash the deposition subpoena, he was informed that he had "jumped out of the frying pan and into the fire" or words to that effect. He was informed that Judge Duffey has a huge ego and is mean. From his observation at the TRO Hearing, Windsor has to agree. [M-Aff #1, ¶69.]

70. There has been a grave miscarriage of justice in Civil Action No. 1:06-CV-00714-ODE ("MIST-1"). Windsor attempted to get Judge Evans to take action, but she has refused to do so. When it appeared to Windsor that efforts were not going to result in action before the statute of limitations and other deadlines would pass, Windsor filed an Independent Action for Fraud Upon the Court (MIST-2 Docket #1). It was assigned to Judge Duffey because Judge Duffey gets all of the pro se actions assigned to him. [M-Aff #1, ¶70.]

71. There are two forms of bias at work in MIST-2. Judge Duffey has a pervasive antagonistic bias toward Windsor, and Judge Duffey has a pervasive bias in favor of Defendant Judge Evans.

[M-Aff #1, ¶71.]

72. Judge Duffey has a preconceived idea of MIST-2 from information that came from outside the case. Judge Duffey called Windsor "**scurrilous and irresponsible**" before MIST-2. [M-Aff #1, ¶72.]

73. A reasonable person would say that branding someone as "**scurrilous and irresponsible**" provides a textbook example of "impartiality might reasonably be questioned." How could anyone even dream that a judge could be impartial after publishing on the Internet for the world to see that **WINDSOR IS EVIL AND IRRESPONSIBLE**? No honest person could. [M-Aff #1, ¶73.]

74. As required by 28 U.S.C. 144, Windsor provided an Affidavit of Prejudice (Exhibit A to the Emergency Motion to Recuse, which is Exhibit B hereto.) Exhibit B hereto contains factual details of the prejudice. [M-Aff #1, ¶74.]

75. **SCURRILOUS is defined as EVIL; using or given to coarse language; vulgar.** (Exhibit E.) [M-Aff #1, ¶75.]

76. **IRRESPONSIBLE is defined in legal terms as NOT MENTALLY OR FINANCIALLY FIT TO ASSUME RESPONSIBILITY.** (Exhibit F.) [M-Aff #1, ¶76.]

77. **SO, JUDGE DUFFEY BRANDED WINDSOR AS EVIL and NOT MENTALLY OR FINANCIALLY FIT TO ASSUME RESPONSIBILITY *before* MIST-2 was assigned to him, and he had it published it on the Internet for all to see.** [M-Aff #1, ¶77.]

78. Judge Duffey made this statement after allegedly reading facts in affidavits presented by Windsor. Windsor's proof is overwhelming. There was no affidavit from Maid, Judge Evans or from

anyone on behalf of Judge Evans, and there were absolutely no facts for Judge Evans before Judge Duffey when he defamed Windsor in his court order in the Deposition Action, 52 days before MIST-2 was filed and assigned to Judge Duffey. (Exhibit C.) This proves extra-judicial bias against Windsor because Judge Duffey completely ignored the facts. [M-Aff #1, ¶78.]

79. Judge Duffey has demonstrated to Windsor that he has a deep-seated personal bias and antagonism against him and anyone who would have the audacity to sue a federal judge. Windsor provided proof of perjury and obstruction of justice by Judge Evans. Proof is detailed in Dec #25 – MIST-1 Docket #472, referenced and incorporated herein as if attached hereto. The "charges" are detailed in the Verified Action [MIST-2 Docket #1]. Windsor's claims have not been controverted by Judge Evans, and it will be impossible for her to do so because Windsor has the PROOF. It is filed for all to see. [M-Aff #1, ¶79.]

80. Judge Duffey indicated to Windsor that he has a bias against pro se parties. BUT "... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws." ***Elmore v. McCammon*** (1986) 640 F. Supp. 905. [M-Aff #1, ¶80.]

81. Judge Duffey has an unfavorable opinion about Windsor that rests upon beliefs that Judge Duffey should not have. [M-Aff #1, ¶81.]

82. Judge Duffey has demonstrated pervasive bias throughout the short proceeding in MIST-2; he has not demonstrated the impartiality required of a judge. The Orders issued by Judge Duffey and his comments at the TRO Hearing show

this. [M Aff #1, ¶82.]

83. Canon 2 of the Code of Judicial Conduct provides: "A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." [M-Aff #1, ¶83.]

84. Windsor's heartfelt prayer was that the judge assigned to MIST-2 would have truly been impartial and would have listened to what happened with an open mind. Judge Duffey entered MIST 2 with a closed mind and complete and total bias against Windsor. All Windsor wants are his Constitutional rights. Those rights are supposed to be guaranteed. [M Aff #1, ¶84.]

85. The motions for recusal of Judge Duffey (MIST-2 Docket #36 and 17 and Exhibits A and B hereto) are based on a number of grounds: (1) Obvious bias against Windsor and a complete lack of impartiality; (2) deep seated antagonism demonstrated against Windsor in a prior legal proceeding; (3) a number of comments by Judge Duffey at the Temporary Restraining Order Hearing giving the Defendants the court's ideas and/or suggestions or observations about the case and demonstrating his bias; (4) violation of the Code of Judicial Conduct; (5) violation of Windsor's rights to due process and Constitutional and civil rights; (6) close friendship with Judge Evans; (7) and more. [M-Aff #1, ¶85.]

ARGUMENT

THIS COURT HAS JURISDICTION.

86. This Court's jurisdiction arises from the All Writs Act, 28 U.S.C. 1651(a), which provides that "the Supreme Court and all courts established by an Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions." See *Telecommunications Research & Action Ctr. v. FCC*, 750 F.2d 70, 76 (D.C. Cir. 1984); *Sierra Club v. Thomas*, 828 F.2d 783, 795-96 (D.C. Cir. 1987). [M Aff #1, ¶86.]

JUDGE DUFFEY NO LONGER HAS JURISDICTION IN THE DISTRICT COURT DUE TO ABUSE OF DISCRETION.

87. In MIST-2, Judge Duffey has not followed the required ministerial procedures for motions to recuse. This violates the statutes and is an abuse of discretion. A Writ of Mandamus is required. [M-Aff #1, ¶87.]

88. "[T]he remedy of mandamus is a drastic one, to be invoked only in extraordinary situations.... Only exceptional circumstances, amounting to a judicial usurpation of power, will justify the invocation of this extraordinary remedy." *Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33, 34-35, 101 S. Ct. 188, 190, 66 L. Ed. 2d. 193 (1980); see also *In re Temple*, 851 F.2d 1269, 1271 (11th Cir. 1988) (mandamus "is to be exercised only in drastic situations, when no other adequate means are available to remedy a clear usurpation of power or abuse of discretion."); *In re Evans*, 524 F.2d 1004,

1007 (5th Cir. 1975) ("mandamus lies only to confine a lower court to its jurisdiction or to compel it to perform ministerial functions over which it has no discretion."). [M-Aff #1, ¶88.]

89. The Supreme Court has admonished that use of the writ of mandamus against a judge is a "drastic and extraordinary" remedy [*Ex Parte Fahey*, 1947, 332 U.S. 258, 259, 67 S.Ct. 1558, 1559, 91 L.Ed. 2041] which is "meant to be used only in the exceptional case where there is clear abuse of discretion * * *." *Bankers Life & Cas. Co. v. Holland*, 1953, 346 U.S. 379, 383, 74 S.Ct. 145, 148, 98 L.Ed. 106. [M-Aff #1, ¶89.]

THIS PETITION FOR WRIT OF MANDAMUS IS APPROPRIATE.

90. All courts of appeals permit a party to seek interlocutory review of recusal via mandamus because the damage to public confidence in the justice system or to the litigants cannot be undone by post-judgment appeal. This is a very important factor in MIST-2. *See, e.g., In re United States*, 666 F.2d 690, 694 (1st Cir. 1981); *In re IBM Corp.*, 618 F.2d 923, 926–27 (2d Cir. 1980); I*n re School Asbestos Litig.*, 977 F.2d 764, 774–78 (3d Cir. 1992); *In re Rogers*, 537 F.2d 1196, 1197 n.1 (4th Cir. 1976) (per curiam); *In re Corrugated Container Antitrust Litig.*, 614 F.2d 958, 961 n.4 (5th Cir. 1980); *In re Aetna Cas. & Sur. Co.*, 919 F.2d 1136, 1139–43 (6th Cir. 1990); *SCA Servs. v. Morgan*, 557 F.2d 110, 117 (7th Cir. 1977) (per curiam). [M-Aff #1, ¶90.]

WINDSOR HAS NO OTHER ADEQUATE REMEDY.

91. Mandamus is proper only if "there is no other adequate remedy available to the plaintiff." *Northern States Power Co. v. DOE*, 128 F.3d 754, 758 (D.C. Cir. 1997) (citation omitted). [M-Aff #1, ¶91.]

92. Because part of Judge Duffey's error is his unreasonable delay in acting, Windsor's only avenue for relief is a writ of mandamus. [M-Aff #1, ¶92.]

93. Furthermore, the wrongful actions that Judge Duffey has taken since first refusing to be recused have violated Windsor's legal and Constitutional rights. [M-Aff #1, ¶93.]

94. Entirely too much damage will have been done to wait for appeal. [M-Aff #1, ¶94.]

LEGAL ARGUMENTS ARE PROVIDED IN THE MOTIONS TO RECUSE:

95. Windsor's legal arguments are detailed in Exhibits A and B:

a. The impartiality of Judge Duffey must reasonably be questioned.
b. Failure to follow proper procedure has violated Windsor's civil rights, and Judge Duffey has been acting in the absence of all jurisdiction.
c. An objective observer, lay observer, and/or disinterested observer must entertain significant doubt of the impartiality of Judge Duffey.
d. To avoid the appearance of impropriety, Judge Duffey should have been recused.
e. The bias of Judge Duffey stems from extra-judicial sources, though extra-judicial is not a requirement of the Supreme Court.

f. When we apply the reasonable person analysis to this situation, any reasonable person would question the impartiality of Judge Duffey.
G. Judge Duffey has shown pervasive bias.
h. Judge Duffey has violated Windsor's civil and constitutional rights under color of law. [M-Aff #1, ¶95.]

96. Windsor is entitled, under the Constitution, its Amendments, the decisions of the U.S. Supreme Court and other federal courts of appeal, and the laws of Congress, to an impartial and fair judge at all stages of the proceeding. [M-Aff #1, ¶96.]

"the negative bias or prejudice from which the law of recusal protects a party must be grounded in some personal animus or malice that the judge harbors against him, of a kind that a fair minded person could not entirely set aside when judging certain persons or causes." *U.S. v. Balistrieri*, 779 F.2d 1191, 1201 (7th Cir. 1985), *cert. denied*, 477 U.S. 908 (1986).

97. Animus and malice are defined as "ill will" -- defined as "unfriendly feeling." Windsor has been damaged by Judge Duffey's unfriendly feeling. [M-Aff #1, ¶97.]

98. You are **EVIL and IRRESPONSIBLE**, but please don't take that as an unfriendly feeling. Judge Duffey's own words indicate that it is impossible for him to be fair or impartial with Windsor. [M-Aff #1, ¶98.]

REASON WHY WRIT SHOULD ISSUE

99. The writ should issue because Judge Duffey has abused his discretion, and Windsor cannot obtain relief through an ordinary appeal. [M-Aff #1, ¶99.]

100. Judge Duffey's void of impartiality in this matter has already prejudiced the case against Windsor. Judge Duffey has made biased rulings. Judge Duffey is not allowing motions to be filed or considered properly. Judge Duffey has "enacted" changes to FRCP rules that disadvantage Windsor. Judge Duffey has established deadlines for the end of August and mid September that seriously compromise Windsor. [M-Aff #1, ¶100.]

101. Judge Duffey had a duty to recuse himself pursuant to U.S.C. 28 sections 144 and 455, and he failed to do so. From July 28, 2009 to the present, Judge Duffey violated this Code of Judicial Conduct and these statutes with respect to MIST-2. [M-Aff #1, ¶101.]

102. A reasonable person *would* question the impartiality of any judge who called a person evil and irresponsible ever, much less **before** being assigned a case. [M-Aff #1, ¶102.]

103. Under the circumstances, recusal is the only remedy that will promote the public's faith in the integrity and fairness of the federal judicial system, prompt other judges to handle motions for recusal properly, restore impartiality to the litigants in the judicial process, and secure the relief that Windsor deserves. [M-Aff #1, ¶103.]

104. Support for this Petition is provided in the entire docket in Civil Action 1:09-CV-1543-WSD-WEJ ("Deposition Action"); the entire Docket in Civil Action 1:06-CV-0714-ODE; and the entire docket in Civil Action No. 1:09-CV-02027-WSD. The Affidavit

of William M. Windsor in Support of Petition for Writ of Mandamus to Recuse Judge Duffey is attached hereto as Exhibit G and incorporated herein. [M-Aff #1, ¶104.]

WHEREFORE, Windsor respectfully prays that this Court will grant a hearing on this Petition and require that all Defendants be in attendance; Windsor also respectfully prays that a writ of mandamus be issued by this court directed to the Honorable William S. Duffey, Judge of the United States District Court for the Northern District of Georgia, directing him to:

(1) vacate the order denying Windsor's motion for recusal;
(2) vacate all orders in Civil Action No. 1:09-CV-02027-WSD;
(3) issue an order requiring the Defendants to file timely answers to the Verified Action in Civil Action No. 1:09 CV 02027-WSD;
(4) notify the appropriate authorities of the appearance of professional misconduct by Maid's attorneys and Judge Evans;
(5) disqualify himself from presiding in Civil Action No. 1:09-CV-02027-WSD and in any matters related to Windsor; and
(6) for such other and further relief as this Court may deem proper.

Respectfully submitted, this 10th day of August 2009.

/s_____
William M. Windsor
Pro Se

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APPEAL DOC.NO

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

WILLIAM M. WINDSOR, PLAINTIFF AND PETITIONER,

v.

UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY, ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS, AND DOES 1 TO 100, Defendants and Respondents,

And JUDGE WILLIAM S. DUFFEY, Respondent.

Appeal from the United States District Court
for the Northern District of Georgia, Atlanta Division
Civil Action No. 1:09-CV-02027-WSD
The Honorable William S. Duffey

WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE WILLIAM S. DUFFEY - CERTIFICATE OF PETITIONER

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PRO SE FOR PLAINTIFF/PETITIONER,
WILLIAM M. WINDSOR

CERTIFICATE OF PETITIONER

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that, to the best of my knowledge, the facts in the above petition are true and correct.

Executed this 10th day of August 2009.

/s_____
WILLIAM M. WINDSOR
Pro Se

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Sworn to before me, this 10th day of August, 2009.

/s_____
Michelle Thornton
Notary Public

APPEAL DOC.NO.

IN THE UNITED STATES COURT OF APPEALS
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WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE WILLIAM S. DUFFEY - CERTIFICATE OF COMPLIANCE

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PRO SE FOR PLAINTIFF/PETITIONER,
WILLIAM M. WINDSOR

CERTIFICATE OF COMPLIANCE

I hereby certify that this pleading has been prepared in Times New Roman 14-point font, one of the font and point selections approved by this Court.

/s_____

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Civil Action No. 1:09-CV-02027-WSD
The Honorable William S. Duffey

WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE WILLIAM S. DUFFEY -- CERTIFICATE OF SERVICE

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PRO SE FOR PLAINTIFF/PETITIONER,
WILLIAM M. WINDSOR

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of August 2009, I served **WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE DUFFEY** by depositing in the United States Mail with sufficient postage addressed as follows:

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This 10th day of August, 2009.

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APPEAL DOC.NO.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

WILLIAM M. WINDSOR, PLAINTIFF AND PETITIONER,

v.

UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY, ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS, AND DOES 1 TO 100, Defendants and Respondents,

And JUDGE WILLIAM S. DUFFEY, Respondent.

Appeal from the United States District Court
for the Northern District of Georgia, Atlanta
Division
Civil Action No. 1:09-CV-02027-WSD
The Honorable William S. Duffey

WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE WILLIAM S. DUFFEY –
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PRO SE FOR PLAINTIFF/PETITIONER,
WILLIAM M. WINDSOR

CERTIFICATE OF INTERESTED PERSONS

I hereby certify that on the 10th day of August 2009, I served **WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE DUFFEY** by depositing in the United States Mail with sufficient postage addressed as follows:

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Judge William S. Duffey
United States District Court

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This 10th day of August, 2009.

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Pro Se

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UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY, ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS, AND DOES 1 TO 100, Defendants and Respondents,

And JUDGE WILLIAM S. DUFFEY, Respondent.

Appeal from the United States District Court
for the Northern District of Georgia, Atlanta Division
Civil Action No. 1:09-CV-02027-WSD
The Honorable William S. Duffey

FIRST MANDAMUS AFFIDAVIT OF WILLIAM M. WINDSOR IN SUPPORT OF WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE WILLIAM S. DUFFEY

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WILLIAM M. WINDSOR

FIRST MANDAMUS AFFIDAVIT OF WILLIAM M. WINDSOR IN SUPPORT OF WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS TO RECUSE JUDGE WILLIAM S. DUFFEY

I, William M. Windsor, the undersigned, hereby declare under penalty of perjury:

1. My name is William M. Windsor ("Windsor"). I am over the age of 21, am competent to testify, and have personal knowledge of the matters stated herein. I am a party to this action, and I am representing myself pro se. I am not an attorney. This declaration is based upon my personal knowledge. This declaration also includes some of my opinions and beliefs. I am the Plaintiff in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"), captioned as ***William M. Windsor v. United States of America, et al***, in the United States District Court for the Northern District of Georgia. I am applying, pursuant to the provisions of 28 U.S.C. 1651 and Rule 21(a) of the Federal Rules of Appellate Procedure, for a writ of mandamus to be issued by this court directing the Honorable William S. Duffey, Judge of the United States District Court for the Northern District of Georgia ("Judge Duffey"), to vacate his order denying my motion for recusal and disqualify himself from presiding in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"), and other relief. [M-Aff#1, ¶1.]

2. I believe recusal is justified on grounds that Judge Duffey was disqualified under 28 U.S.C. 455 at the time he ruled and entered an order denying my motions on July 30, 2009 and when he ruled denying my Motion for Temporary Restraining

Order on July 30, 2009 (reduced to an order on August 4, 2009 – MIST-2 Docket #32). I believe Judge Duffey should be disqualified pursuant to 28 U.S.C. 144 as well. Judge Duffey's participation in MIST-2 exhibits the strong appearance of impropriety for which relief through disqualification is warranted. I further pray that the instant case be reassigned to a judge who is not associated with Defendant Judge Orinda D. Evans ("Judge Evans"). [M-Aff #1, ¶2.]

ORDER CHALLENGED

3. I am the Plaintiff in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"). My first motion to recuse was denied on July 30, 2009. [Exhibit A] [MIST-2 Docket #22.] [M-Aff #1, ¶3.]

4. My Emergency Motion to Recuse (second motion to recuse) has not been addressed by Judge Duffey -- filed August 4, 2009. [Exhibit B] [MIST-2 Docket #36.] [M-Aff #1, ¶4.]

STATEMENT OF ISSUES

5. I believe the law shows that Judge Duffey should have recused himself in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"). [M-Aff #1, ¶5.]

6. My rights under the U.S. Constitution and its amendments have been severely abridged in MIST-2. [M-Aff #1, ¶6.]

7. Judge Duffey appears to me to be guided along a path that will wrongly deny me any opportunity to present the merits of my case and that will punish me for having the audacity to sue a federal judge. [M-Aff #1, ¶7.]

8. My legal and Constitutional rights were violated when Judge Duffey was assigned as the judge. The system of using only one judge to hear all pro se cases is unfair and violates the rights of repeat pro se parties. [M-Aff #1, ¶8.]

9. At the risk that honest judges with the Eleventh Circuit will write me off as a crazy pro se party, I am at wit's end. I am a retired corporate CEO, an honest law-abiding citizen who has been abused beyond belief, and I have to address the real issue. I am not scurrilous or irresponsible. Please see Affidavit of Prejudice ¶ 128-136, part of Exhibit B to the Petition for Writ of Mandamus. These paragraphs provide personal background information that I believe indicates that I am not a crazy person, a scurrilous person, or an irresponsible person. [M-Aff #1, ¶9.]

10. The real issue in this case is the dishonesty of at least two judges in the U.S. District Court for the Northern District of Georgia, Judge Evans and Judge Duffey. The rule of law, the most fundamental principles of morality, ethics, rights, fairness, and impartiality seem to mean nothing to these judges when it comes to twisting the law, rules, and facts to accomplish personal desires and covering up the wrongs of fellow members of the Bar and Bench. Violations by Judge Evans are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2609-2682 of MIST-2 Doc. 1. [M Aff #1, ¶10.]

11. I have charged Maid's attorneys -- Hawkins & Parnell, Mr. Carl Hugo Anderson, Phillips Lytle, Marc W. Brown, and Mr. Arthur Russ; and Judge Orinda D. Evans with Professional Misconduct and fraud upon the court. I have

charged Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd. ("Maid"), Christopher Glynn ("Glynn"), Timothy P. Ruddy ("Ruddy"), Robert J. Schul ("Schul"), Sandra Carlson ("Carlson"), and Judith L. Berry ("Berry") with perjury and many other charges in a conspiracy to commit fraud on the court. I charge all with violations of the RICO Acts. Violations by Maid attorneys are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2584-2608 of MIST-2 Doc. 1. Violations by Maid and its managers are listed throughout MIST-1 Doc. 462-Dec #25 and are highlighted in ¶¶ 2683-2691 of MIST-2 Doc. 1. The causes of action against the Defendants are listed in ¶¶ 2692-3018 in MIST-2 Doc. 33 (amendment to Doc. 1.) [M-Aff #1, ¶11.]

12. The big question is: Does anyone really care? [M-Aff #1, ¶12.]

13. Does anyone really care if parties, attorneys, and judges lie, cheat, and break all the rules? [M Aff #1, ¶13.]

14. The horrendous reality is that many people lie in court, and the judges, attorneys, courts, and governments do little or nothing about it. Perjury is a crime that is committed every day in every courtroom all across the country and goes unpunished. As a result, it is no wonder that parties, their attorneys, and judges feel they can lie hundreds of times in a case and get away with it. It is the responsibility of a court to brand these conspirators as liars and find these conspirators guilty of professional misconduct. If the courts would disbar all the cheaters, send all the liars to jail, and remove all of the dishonest judges, I believe we would see significant improvement in our legal

system, far fewer cases, simpler cases, and the system would find the guilty to be guilty rather than reward the best liars and cheaters by finding them to be not guilty. [M-Aff #1, ¶14.]

15. The Complaint that I filed in MIST-2 is the story of dishonesty on steroids by officers of the court. [M-Aff #1, ¶15.]

16. I have to be honest and say that I currently do not know if anyone really cares. My belief has become that many people are liars, and parties to lawsuits, their dishonest attorneys, and judges are among the worst. [M-Aff #1,¶16.]

17. Judge Evans seems to care less if attorneys and litigants commit massive perjury in her courtroom. She made more false statements than just about anyone in MIST-1. In my opinion, the truth seems meaningless to Judge Evans. [M-Aff #1, ¶17.]

18. Judge Duffey seems to care little about truth. Judge Duffey had an opportunity to act on the wrongdoing in this case, but he neglected his duty and began making false statements in orders. [M-Aff #1, ¶18.]

19. Basic questions for those considering this Petition are the following:

20. Should a court allow perjury by a party? How much perjury does it take to become objectionable? What about 450 counts of perjury? [M-Aff #1, ¶20.]

21. Should a court allow attorneys to commit perjury by submitting false statements of fact to the court? How many false statements from attorneys does it take to become objectionable? What about 350 counts of perjury? [M-Aff #1, ¶21.]

22. Should a court allow attorneys to suborn perjury? How many instances of suborning perjury from an attorney does it take to become objectionable? What about hundreds? [M-Aff #1, ¶22.]

23. Should a court allow attorneys to commit violations of the State Bar of Georgia Code of Professional Conduct? How many violations from an attorney does it take to become objectionable? What about hundreds? [M-Aff #1, ¶23.]

24. Should a court allow attorneys to routinely violate the Federal Rules of Civil procedure ("FRCP")? How many violations from an attorney does it take to become objectionable? What about dozens? [M-Aff #1, ¶24.]

25. Should a court allow attorneys to routinely violate the laws of the state? How many laws must be violated by an attorney to become objectionable? What about nine laws violated repeatedly over three years? [M-Aff #1, ¶25.]

26. Should a court allow attorneys to routinely violate the laws of the USA? How many laws must be violated by an attorney to become objectionable? What about eight laws violated repeatedly over three years? [M-Aff #1, ¶26.]

27. Should the judicial system allow judges to commit perjury and obstruction of justice? How much perjury by a judge does it take to become objectionable? What about 250 counts of perjury? [M-Aff #1, ¶27.]

28. Should a judge be allowed to completely and totally ignore the complaints of one party that the other party and their attorneys have committed massive misconduct as described above? [M-Aff #1, ¶28.]

29. What should be done to attorneys and judges who commit such incredible misconduct? Shouldn't these attorneys be disbarred, and shouldn't this judge be impeached? [M-Aff #1, ¶29.]

30. How do you compensate a litigant who had over $1,000,000 stolen from him in the guise of a lawsuit in which this professional misconduct completely and totally perverted the legal system? [M-Aff #1, ¶30.]

31. How in the world can a judge even pretend to stand for truth and justice and decency if he/she allows things like this to happen? [M-Aff #1, ¶31.]

32. All of the above happened in MIST-1, and judicial abuse has begun in MIST-2. [M-Aff #1, ¶32.]

33. I have the evidence if someone will just care. I ask this Court to consider why none of the Defendants have filed a single affidavit in MIST-1, the Deposition Action, or MIST-2 in 2009. I have filed thousands of pages of sworn testimony stating that the Defendants have committed perjury, subornation of perjury, and much more. If one were innocent of those accusations, it would be simple to sign a sworn affidavit and file it disputing each and every statement that I have made. No one has sworn to anything. I have certainly given them plenty of chances. I believe the reason for this should be obvious to this Court. The Defendants cannot sign sworn affidavits disputing what I have said, because what I have said is true, and much of it is proven through their own testimony. If they swear that what I have said is false, they commit more perjury and the clock starts ticking anew on the statute of limitations. If they admit that what I

have said is true, they admit liability in MIST-2. I suspect that they will all plead the Fifth. If this Court would hold a hearing and require that the Defendants be present, I am confident that I can prove that what I have said is true. I ask this Court to have a hearing on this Petition. [M-Aff #1, ¶33.]

34. Judge Duffey was presented with the evidence, and without a word of testimony or a piece of evidence from the Defendants, he has indicated to me that he has decided to take the position that I am wrong. This proves bias. I do not believe for a second that his position is based upon the facts, because I know the facts backwards and forwards. [M-Aff #1¶34.]

35. I am sorry to say that for many years, I have felt that our legal system was broken. I thought it was the attorneys. I now believe that judges may be just as dishonest. This is beyond shocking. I haven't been in court that many times in my life, but prior to Atlanta, I always felt that the judges were fair and were focused on the law. [M-Aff #1, ¶35.]

36. I keep hoping that Allen Funt will pop out from behind a door and say "Smile, you're on Candid Camera," or Ashton Kutcher will call on the cell phone to say "You've been Punk'd." This is like a horrible nightmare that has consumed four years of my life and a million dollars. [M-Aff #1, ¶36.]

37. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed.

That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness." The *Declaration of Independence*, ¶2, July 4, 1776. [M-Aff #1 ¶37.]

38. All men are created equal unless Judge Evans or Judge Duffey are involved. That's how I see it. That's not what the *Declaration of Independence* says. These judges deserve no rights any greater than mine. I submit to this Court that this "Form of Government" that allows judges to wreak havoc on litigants has "becomes destructive of these ends," and "it is" my right and the right of this Court "the Right of the People to alter or to abolish it, and to institute new Government." Please do not allow egregious abuse such as this. [M-Aff #1, ¶38.]

FACTUAL BACKGROUND

39. On June 3, 2009, the U.S. Attorney representing Judge Evans filed a motion to quash a subpoena for the deposition of Judge Evans in Civil Action No. 1:06-CV-00714-ODE ("MIST-1"). [M-Aff #1, ¶39.]

40. The motion was referred to Judge Duffey, and this created the "Deposition Action." [Deposition Action Docket #1.] [M-Aff #1, ¶40.]

41. Judge Duffey had never had any dealings with me prior to the referral of that motion. I had never heard the name "Judge William S. Duffey" until on or about June 3, 2009. There was

no conference held, and there was no hearing held, despite my motions asking for both. [M-Aff #1, ¶41.]

42. On June 8, 2009, Judge Duffey stayed the properly subpoenaed deposition. [Deposition Action Docket #4.] (Exhibit C.) [M-Aff #1, ¶42.]

43. Judge Duffey made a number of incorrect statements in the order dated June 8, 2009. (See Affidavit of Prejudice ¶ 34-67 and 118-121, part of Exhibit B the Petition for Writ of Mandamus.) The order was totally pro-Judge Evans, and it demonstrates that the bias existed. [M-Aff #1, ¶43.]

44. On June 8, 2009, I filed a Notice of Appearance pro se. [Deposition Action Docket #5.] I also filed a Motion for Hearing. [Deposition Action Docket #6.] [M-Aff #1, ¶44.]

45. On June 10, 2009, the U.S. Attorney supplemented his motion to quash. [Deposition Action Docket #8.] [M-Aff #1, ¶45.]

46. On June 15, 2009, I filed a Motion for Conference. [Deposition Action Docket #13.] [M-Aff #1, ¶46.]

47. On June 18, 2009, I filed a Motion for Reconsideration of the Order Staying Case and the Twenty-Ninth Declaration of William M. Windsor (Dec #29). [Deposition Action Docket #15.] This was filed to note errors in Judge Duffey's order. [M-Aff #1, ¶47.]

48. On June 22, 2009, I filed a Motion to Disqualify Judge Evans with the Thirty-Second Declaration of William M. Windsor ("Dec #32"). [Deposition Action Docket #17.] [M-Aff #1, ¶48.]

49. On June 22, 2009, I filed a Response to the Motion to Quash and Dec #35. [Deposition Action Docket #21.] [M-Aff #1, ¶49.]

50. On June 22, 2009, I also filed a Response to the Motion to Supplement Motion to Quash and Dec #34.[Dep Action Doc #24].[M-Aff #1, ¶50.]

51. On June 30, 2009, the Order to Quash the Deposition of Judge Evans was issued by Judge Duffey. [Deposition Action Docket #32.] (Exhibit D.) The order described me as "scurrilous and irresponsible." This was written by a man who did not know me, had never met me, and who made such a statement and decision based solely on my uncontroverted affidavits. In 2009, there have been zero (0) affidavits filed by any of the Defendants in MIST-1, the Deposition Action, or MIST-2. My testimony and evidence stands alone. The only explanation for this response is that Judge Duffey was pre-disposed to bias against me because I had the audacity to try to depose Judge Evans to obtain information that only Judge Evans had that I needed to pursue his claims against various of the Defendants. [M-Aff #1, ¶51.]

52. On July 10, 2009, I filed a Motion for Reconsideration and the Thirty-Seventh Declaration of William M. Windsor ("Dec #37") [Deposition Action Docket #34] and a Motion for Change of Venue and the Forty-Sixth Declaration of William M. Windsor ("Dec #46") [Deposition Action Docket #36]. The only affidavits filed in the Deposition Action Docket were filed by me, so the only facts before Judge Duffey were the facts presented by me. This makes the "scurrilous and irresponsible" slur even more antagonistic and improper. [M-Aff #1, ¶52.]

53. On July 27, 2009, I filed a verified complaint ("Verified Action") to begin Civil Action

No. 1:09-CV-02027-WSD ("MIST-2"). [MIST-2 Docket #1.] [M-Aff #1, ¶53.]

54. On the morning of July 28, 2009, I filed a Motion for Temporary Restraining Order. [MIST-2 Docket #11.] I asked for an immediate hearing. Judge Duffey did not set the hearing until almost 3 business days later on July 30, 2009 at 3:00 pm. The failure to hear this TRO request promptly shows bias. So much for immediate irreparable harm. [M-Aff #1, ¶54.]

55. On July 28, 2009, when I was told by Anthony of the District Court Clerk's Office that Judge Duffey would be presiding in MIST-2, I immediately went home and prepared a Motion to Recuse Judge Duffey and a Motion for Change of Venue, and I returned later in the day to file those. [MIST-2 Docket #15 and 17.] [M-Aff #1, ¶55.]

56. On July 30, 2009, the TRO Hearing was held. Judge Duffey denied the motion. [MIST-2 Docket #31.] Judge Duffey distributed an order on my motions regarding service of process on Canadian defendants, waiver of representation, motion to change venue, and motion to recuse. All were denied. [MIST-2 Docket #22.] Judge Duffey was antagonistic and biased in the hearing. Details of this are provided in the Affidavit of Prejudice ¶ 81-117, part of Exhibit B the Petition for Writ of Mandamus, and will be shown in the Transcript of the Temporary Restraining Order Hearing. False statements in the July 30, 2009 order are listed in the Affidavit of Prejudice ¶ 122-142, part of Exhibit B to the Petition for Writ of Mandamus. [M-Aff #1, ¶56.]

57. On August 4, 2009, I filed an Emergency Motion to Recuse Judge Duffey. I advised

Judge Duffey that I would seek a Writ of Mandamus if there was not a prompt response. This motion appears on the MIST-2 Docket as a "Motion for Leave" because Judge Duffey ordered that I must first submit proposed motions to him. This Request and Motion are attached as Exhibit B. [MIST-2 Docket #36.] [M-Aff #1, ¶57.]

58. As part of the factual background, it is important to understand what took place before Judge Duffey entered the picture. [M-Aff #1, ¶58.]

59. In MIST-1, several attorneys, Judge Evans, and five people lied again and again and again and cost Alcatraz Media, LLC and Alcatraz Media, Inc. (jointly "Alcatraz") and me approximately one million dollars in legal fees and litigation expenses and much more. [M-Aff #1, ¶59.]

60. Four Maid managers are guilty of hundreds of counts of perjury and have committed a conspiracy to commit fraud. Glynn, Ruddy, Schul, and Carlson have lied repeatedly under oath and have conspired to commit fraud against Alcatraz and me. MIST-1 began in August 2005 with a sworn Verified Complaint that consisted of perjured testimony by Glynn. I have detailed that as many as 46 of the 50 paragraphs were false or incorrect and/or not based upon the personal knowledge of Glynn as he swore. I have proven the lies with their own testimony. The lies, false sworn pleadings, false pleadings, and discovery abuse continued throughout MIST-1. This deprived me of any opportunity for a fair trial. The dishonesty of Maid and Maid's attorneys was compounded by the "mistakes" of Judge Evans, who decided on day one that she was going to find in favor of Maid, withheld documents from Alcatraz and me, violated the legal

rights of Alcatraz and me by denying the most basic discovery, and acted without the impartiality required of a judge. (See MIST-1 Doc. 377, Exhibits 9 and 27.) [M-Aff #1, ¶60.]

61. Judge Evans made as many as 200 false statements in the Preliminary Injunction Order and Summary Judgment Order. (See MIST-1 Doc. 377 – Exhibits 9 and 22 for each false statement and the proof of the falsity; see Exhibit B B to the Petition for Writ of Mandamus, ¶¶ 68-69, 190-264.) [M-Aff #1, ¶61.]

62. Maid's managers and attorney Mr. Carl Hugo Anderson lied many hundreds of times. (See MIST-1 Doc. 377 - Exhibits 1-8, 10-21 for each false statement and the proof of the falsity.) [M-Aff #1, ¶62.]

63. Maid attorneys filed false sworn pleadings, false pleadings, committed perjury, suborned perjury, violated numerous rules of the Code of Professional Conduct, and violated a number of laws. (See MIST-1 Doc. 474.) [M-Aff #1, ¶63.]

64. Details of the wrongs ignored by Judge Duffey are provided in MIST2-Doc.1 and the Affidavit of Prejudice that is part of Exhibit B to the Petition for Writ of Mandamus. [M-Aff #1, ¶64.]

65. To understand why I have compiled this proof and have taken each legal step that I have taken, see Exhibit B to the Petition for Writ of Mandamus, Affidavit of Perjury ¶70-171. This explanation should help the Eleventh Circuit understand why I have filed many motions and generated a lot of paper. I am pro se, have no legal help whatsoever, and I am doing the best I can. I have spent months conducting legal research, and I believe that Judge Evans is most definitely a proper

party to MIST-2. I explain why I feel Judge Evans does not qualify for immunity in Exhibit B to the Petition for Writ of Mandamus, ¶277-300. I am pro se, so the experts will rule. My filings are all in the best of faith. [M-Aff #1, ¶65.]

JUDGE DUFFEY IS HOPELESSLY BIASED AGAINST WINDSOR.

66. I believe there is not a chance in the world that I will get a fair trial with Judge Duffey. He is hopelessly biased against me and for Judge Evans. He doesn't even pretend to hide his bias; it is plain to see. [M-Aff #1, ¶66.]

67. Judge Duffey is obviously friends with Judge Evans. Their chambers are on the same floor; their courtrooms are side-by-side. I hoped that Judge Duffey's commitment to his oath as a judge would be more important to him than his friendship with Judge Evans, but it is clear to me that his prejudice for Judge Evans and other judges is overwhelming to him. [M-Aff #1, ¶67.]

68. All I want is to have someone fair and impartial with an open mind to listen to the facts and review as much of the evidence as is needed to prove each of my claims. It is obvious to me that Judge Duffey doesn't care about the facts and doesn't want to consider the facts. [M-Aff #1, ¶68.]

69. When I informed a prospective attorney that I had drawn Judge Duffey to review Judge Evans' Motion to Quash the deposition subpoena, I was informed that I had "jumped out of the frying pan and into the fire" or words to that effect. I was informed that Judge Duffey has a huge ego and is mean. From my observation at the TRO Hearing, I

have to agree. [M-Aff #1, ¶69.]

70. There has been a grave miscarriage of justice in Civil Action No. 1:06-CV-00714-ODE ("MIST-1"). I attempted to get Judge Evans to take action, but she has refused to do so. When it appeared to me that efforts were not going to result in action before the statute of limitations and other deadlines would pass, I filed the Independent Action for Fraud Upon the Court (MIST-2 Docket #1). It was assigned to Judge Duffey because Judge Duffey gets all of the pro se actions assigned to him. [M-Aff #1, ¶70.]

71. There are two forms of bias at work in MIST-2. Judge Duffey has a pervasive antagonistic bias toward me, and Judge Duffey has a pervasive bias in favor of Defendant Judge Evans. [M-Aff #1, ¶71.]

72. Judge Duffey has a preconceived idea of MIST-2 from information that came from outside the case. Judge Duffey called me "**scurrilous and irresponsible**" before MIST-2. [M-Aff #1, ¶72.]

73. A reasonable person would say that branding someone as "**scurrilous and irresponsible**" provides a textbook example of "impartiality might reasonably be questioned." How could anyone even dream that a judge could be impartial after publishing on the Internet for the world to see that **WINDSOR IS EVIL AND IRRESPONSIBLE**? No honest person could. I have fairly and impartially presented the facts to people, and all say "lacks impartiality." [M-Aff #1, ¶73.]

74. As required by 28 U.S.C. 144, I provided an Affidavit of Prejudice (Exhibit A to the Emergency Motion to Recuse, which is Exhibit B to the Petition for Writ of Mandamus.) Exhibit B to the

Petition for Writ of Mandamus contains factual details of the prejudice. [M-Aff #1, ¶74.]

75. **SCURRILOUS is defined as EVIL; using or given to coarse language; vulgar.** (Exhibit E.) [M-Aff #1, ¶75.]

76. **IRRESPONSIBLE is defined in legal terms as NOT MENTALLY OR FINANCIALLY FIT TO ASSUME RESPONSIBILITY.** (Exhibit F.) [M-Aff #1, ¶76.]

77. **SO, JUDGE DUFFEY BRANDED ME AS EVIL and NOT MENTALLY OR FINANCIALLY FIT TO ASSUME RESPONSIBILITY *before* MIST-2 was assigned to him, and he had it published it on the Internet for all to see.** [M-Aff #1, ¶77.]

78. Judge Duffey made this statement after allegedly reading facts in affidavits presented by me. My proof is overwhelming. There was no affidavit from Maid, Judge Evans or from anyone on behalf of Judge Evans, and there were absolutely no facts for Judge Evans before Judge Duffey when he defamed me in his court order in the Deposition Action, 52 days before MIST-2 was filed and assigned to Judge Duffey. (Exhibit C.) This proves extra-judicial bias against me because Judge Duffey completely ignored the facts. [M-Aff #1, ¶78.]

79. Judge Duffey has demonstrated to me that he has a deep-seated personal bias and antagonism against me and anyone who would have the audacity to sue a federal judge. I provided proof of perjury and obstruction of justice by Judge Evans. Proof is detailed in Dec #25 – MIST-1 Docket #472, referenced and incorporated herein as if attached hereto. The "charges" are detailed in the Verified Action [MIST-2 Docket #1]. My claims have not been controverted by Judge Evans, and it will be

impossible for her to do so because I have the PROOF. It is filed for all to see. [M-Aff #1, ¶79.]

80. Judge Duffey indicated to me that he has a bias against pro se parties. [M-Aff #1, ¶80.]

81. Judge Duffey has an unfavorable opinion about me that rests upon beliefs that Judge Duffey should not have. [M-Aff #1, ¶81.]

82. Judge Duffey has demonstrated pervasive bias throughout the short proceeding in MIST-2; he has not demonstrated the impartiality required of a judge. The Orders issued by Judge Duffey and his comments at the TRO Hearing show this. [M-Aff #1, ¶82.]

83. Canon 2 of the Code of Judicial Conduct provides: "A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." [M-Aff #1, ¶83.]

84. My heartfelt prayer was that the judge assigned to MIST-2 would have truly been impartial and would have listened to what happened with an open mind. Judge Duffey entered MIST-2 with a closed mind and complete and total bias against me. All I want are my Constitutional rights. Those rights are supposed to be guaranteed. [M-Aff #1, ¶84.]

85. The motions for recusal of Judge Duffey (MIST-2 Docket #36 and 17 and Exhibits A and B to the Petition for Writ of Mandamus) are based on a number of grounds: (1) Obvious bias against me and a complete lack of impartiality; (2) deep-seated antagonism demonstrated against me in a prior legal proceeding; (3) a number of comments by Judge Duffey at the Temporary Restraining Order Hearing giving the Defendants the court's ideas and/or

suggestions or observations about the case and demonstrating his bias; (4) violation of the Code of Judicial Conduct; (5) violation of my rights to due process and Constitutional and civil rights; (6) close friendship with Judge Evans; (7) and more. [M-Aff #1, ¶85.]

ARGUMENT

THIS COURT HAS JURISDICTION.

86. This Court's jurisdiction arises from the All Writs Act, 28 U.S.C. 1651(a), which provides that "the Supreme Court and all courts established by an Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions." [M-Aff #1, ¶86.]

JUDGE DUFFEY NO LONGER HAS JURISDICTION IN THE DISTRICT COURT DUE TO ABUSE OF DISCRETION.

87. In MIST-2, Judge Duffey has not followed the required ministerial procedures for motions to recuse. This violates the statutes and is an abuse of discretion. A Writ of Mandamus is required. [M-Aff #1, ¶87.]

88. Blank [M-Aff #1, ¶88.]

89. Blank [M-Aff #1, ¶89.]

THIS PETITION FOR WRIT OF MANDAMUS IS APPROPRIATE.

90. My legal research indicates that all courts of appeals permit a party to seek interlocutory

review of recusal via mandamus because the damage to public confidence in the justice system or to the litigants cannot be undone by post-judgment appeal. This is a very important factor in MIST-2. [M-Aff #1, ¶90.]

WINDSOR HAS NO OTHER ADEQUATE REMEDY.

91. Mandamus is proper only if "there is no other adequate remedy available to the plaintiff." I have no other remedy. [M-Aff #1, ¶91.]

92. Because part of Judge Duffey's error is his unreasonable delay in acting, my only avenue for relief is a writ of mandamus. Judge Duffey has failed to act on motions that I have been required to submit to him for special request to be able to file. These include an amendment to the complaint that is seriously time-sensitive and my Emergency Motion to Recuse Judge Duffey. [M-Aff #1, ¶92.]

93. The wrongful actions that Judge Duffey has taken since first refusing to be recused have violated my legal and Constitutional rights. [M-Aff #1, ¶93.]

94. Entirely too much damage will have been done to wait for appeal. [M-Aff #1, ¶94.]

LEGAL ARGUMENTS ARE PROVIDED IN THE MOTIONS TO RECUSE:

95. My legal arguments are detailed in Exhibits A and to the Petition for Writ of Mandamus:

a. The impartiality of Judge Duffey must reasonably be questioned.

b. Failure to follow proper procedure has violated my civil rights, and Judge Duffey has been acting in the absence of all jurisdiction.

c. An objective observer, lay observer, and/or disinterested observer must entertain significant doubt of the impartiality of Judge Duffey.

d. To avoid the appearance of impropriety, Judge Duffey should have been recused.

e. The bias of Judge Duffey stems from extra-judicial sources, though extra-judicial is not a requirement of the Supreme Court.

F. When we apply the reasonable person analysis to this situation, any reasonable person would question the impartiality of Judge Duffey.

G. Judge Duffey has shown pervasive bias.

h. Judge Duffey has violated my civil and constitutional rights under color of law. [M-Aff #1, ¶95.]

96. I am entitled, under the Constitution, its Amendments, the decisions of the U.S. Supreme Court and other federal courts of appeal, and the laws of Congress, to an impartial and fair judge at all stages of the proceeding. I haven't been given an impartial judge. [M-Aff #1, ¶96.]

97. Animus and malice are defined as "ill will" -- defined as "unfriendly feeling." I have been damaged by Judge Duffey's unfriendly feeling. [M-Aff #1, ¶97.]

98. Judge Duffey's own words indicate that it is impossible for him to be fair or impartial with me. [M-Aff #1, ¶98.]

REASON WHY WRIT SHOULD ISSUE

99. The writ should issue because Judge Duffey has abused his discretion, and I cannot obtain relief through an ordinary appeal. [M-Aff #1, ¶99.]

100. Judge Duffey's void of impartiality in this matter has already prejudiced the case against me. Judge Duffey has made biased rulings. Judge Duffey is not allowing motions to be filed or considered properly. Judge Duffey has "enacted" changes to FRCP rules that disadvantage me. Judge Duffey has established deadlines for the end of August and mid September that seriously compromise me. [M-Aff #1, ¶100.]

101. I believe Judge Duffey had a duty to recuse himself pursuant to U.S.C. 28 sections 144 and 455, and he failed to do so. I believe that from July 28, 2009 to the present, Judge Duffey violated this Code of Judicial Conduct and these statutes with respect to MIST-2. [M-Aff #1, ¶101.]

102. A reasonable person *would* question the impartiality of any judge who called a person evil and irresponsible ever, much less **before** being assigned a case. [M-Aff #1, ¶102.]

103. Under the circumstances, recusal is the only remedy that will promote the public's faith in the integrity and fairness of the federal judicial system, prompt other judges to handle motions for recusal properly, restore impartiality to the litigants in the judicial process, and secure the relief that I deserve. [M-Aff #1, ¶103.]

104. Support for this Petition is provided in the entire docket in Civil Action 1:09-CV-1543-WSD-WEJ ("Deposition Action"); the entire Docket in Civil Action 1:06-CV-0714-ODE ("MIST-1"); and the entire

docket in Civil Action No. 1:09-CV-02027-WSD ("MIST-2"). This First Mandamus Affidavit of William M. Windsor in Support of Petition for Writ of Mandamus to Recuse Judge Duffey is attached the Petition for Writ of Mandamus as Exhibit G and incorporated therein. [M-Aff #1, ¶104.]

In accordance with 28 U.S.C. § 1746, I declare under penalty of perjury that, to the best of my knowledge, the facts in the above petition are true and correct.

Executed this 10th day of August 2009.

/s_____
WILLIAM M. WINDSOR
Pro Se

3924 Lower Roswell Road
Marietta, GA 30068
Telephone: 770-578-1094
Fax: 770-578-1057
Email: bill@billwindsor.com

Sworn to before me, this 10th day of August, 2009.

/s_____
Michelle Thornton
Notary Public

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
	)
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

REQUEST FOR SPECIFIC APPROVAL TO FILE
NOTICE OF INTENT TO APPEAL
TO THE UNITED STATES SUPREME OURT

Plaintiff William M. Windsor hereby files this REQUEST FOR SPECIFIC APPROVAL TO FILE NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT.

1. The requirement that "Leave of Court must be requested by filing a "Request for Specific Approval" and attaching as an exhibit to that request any proposed motion or other paper, together with all proposed attachments to the motion or other paper" was ordered on July 30, 2009. [Docket #22.]

2. This "Request for Specific Approval is filed as per this order dated July 30, 2009. [Docket #22.]

3. The NOTICE OF FILING OF NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT is attached hereto as Exhibit A.

4. The NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT is attached hereto as Exhibit B.

WHEREFORE, Windsor respectfully requests that the Court do as follows:

(1) grant Windsor's Request for Specific Approval;

(2) allow the NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT to be filed; and

(3) grant such other relief as this Court deems appropriate.

Respectfully submitted, this 23rd day of October, 2009.

/s_____
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Pro Se

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO:
	1:09-CV-02027-WSD
	)
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF COMPLIANCE

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared

in Times New Roman 14-point font, one of the font and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

/s_____
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
	)
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
_____	)

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing REQUEST FOR SPECIFIC APPROVAL

TO FILE NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT by depositing the same with the United States Postal Service with sufficient postage and addressed as follows:

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This 23rd day of October, 2009.

/s_____
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Pro Se

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28 U.S.C. § 144 Bias or prejudice of judge

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith

28 U.S.C. § 455 Disqualification of justice, judge, or magistrate judge

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

(1) "proceeding" includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;

(4) "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome),

disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

Constitution of the United States – Article VI:

All Debts contracted and Engagements entered into, before the Adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.
This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.
The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

Constitution of the United States – First Amendment:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech,

or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Constitution of the United States – Fifth Amendment:

No person shall be held to answer for a capital, or otherwise infamous crime, unless on presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Constitution of the United States – Sixth Amendment:

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district where in the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence.

Constitution of the United States – Eighth Amendment:

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Constitution of the United States – Ninth Amendment:

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Constitution of the United States – Fourteenth Amendment:

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the

members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

Section 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

Section 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

Section 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Supreme Court, U.S.
FILED
10-632 OCT 15 2010
OFFICE OF THE CLERK

No.

In The
Supreme Court of the United States

WILLIAM M. WINDSOR,

Petitioner

v.

UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY, ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS. AND DOES 1 TO 100,

Respondents

On Petition for Writ of Mandamus
To The United States Court of Appeals for
The Eleventh Circuit

PETITION FOR WRIT OF MANDAMUS
APPENDIX – VOLUME 2

William M. Windsor
Pro Se
3924 Lower Roswell Rd
Marietta, GA 30068
770-578-1094

APPENDIX – VOLUME 2 CONTENTS [1]

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[1] The affidavits and exhibits to the affidavits provided herein have not been included in this Appendix due to the volume. If this Court wants to see the exhibits, the Petitioner can easily provide them.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO:
	1:09-CV-02027-WSD
	)
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

REQUEST FOR SPECIFIC APPROVAL TO FILE NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME OURT

Plaintiff William M. Windsor hereby files this REQUEST FOR SPECIFIC APPROVAL TO FILE NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT.

1. The requirement that "Leave of Court must be requested by filing a "Request for Specific Approval" and attaching as an exhibit to that request any proposed motion or other paper, together with all proposed attachments to the motion or other paper" was ordered on July 30, 2009. [Docket #22.]

2. This "Request for Specific Approval is filed as per this order dated July 30, 2009. [Docket #22.]

3. The NOTICE OF FILING OF NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT is attached hereto as Exhibit A.

4. The NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT is attached hereto as Exhibit B.

WHEREFORE, Windsor respectfully requests that the Court do as follows:

(1) grant Windsor's Request for Specific Approval;
(2) allow the NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT to be filed; and

(3) grant such other relief as this Court deems appropriate.

Respectfully submitted, this 23rd day of October, 2009.

/s_____

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Facsimile: 770-578-1057
Email: bill@billwindsor.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO:
	1:09-CV-02027-WSD
	)
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF COMPLIANCE

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared

in Times New Roman 14-point font, one of the font and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

/s_____
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. WINDSOR,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
	)
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing REQUEST FOR SPECIFIC APPROVAL

TO FILE NOTICE OF INTENT TO APPEAL TO THE UNITED STATES SUPREME COURT by depositing the same with the United States Postal Service with sufficient postage and addressed as follows:

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United States of America
U.S. Attorney's Office
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse
75 Spring Street, SW
Atlanta, Georgia 30303

Judge Orinda D. Duffey
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse

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This 23rd day of October, 2009.

/s/ _____
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IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-13998-A

WILLIAM M. WINDSOR,

Plaintiff-Appellant,

Versus

UNITED STATES OF AMERICA,
JUDGE ORINDA D. EVANS,
HAWKINS & PARNELL, LLP,
CARL HUGO ANDERSON,
PHILLIPS LYTLE, LLP,
Et al.,

Defendants-Appellees

Appeal from the United States District Court for the Northern District of Georgia

---

BEFORE: HULL, MARCUS, and PRYOR, Circuit Judges.

BY THE COURT:

William M. Windsor's motion for reconsideration is GRANTED IN PART and DENIED IN PART. The motion for reconsideration is DENIED as to the district court's July 30, 2009, written order. The motion for reconsideration is GRANTED with regard to the district court's July 30, 2009 oral order denying Windsor's motion for preliminary injunction. See 28 U.S.C. 1292(a)(1); AT&T Broadband v. Tech Communications, Inc., 381 F.3d 1309, 1314 (11th Cir. 2004). Windsor's motion to file his reply brief out-of-time is GRANTED. Windsor's motion to strike the appellees' response to his motion for reconsideration is DENIED. Windsor's motion to sanction the appellees is DENIED.

FILED
U.S.COURT OF APPEALS
ELEVENTH CIRCUIT

Nov 20 2009

THOMAS K. KAHN
CLERK

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-13998-A

WILLIAM M. WINDSOR,

Plaintiff-Appellant,

Versus

UNITED STATES OF AMERICA,
JUDGE ORINDA D. EVANS,
HAWKINS & PARNELL, LLP,
CARL HUGO ANDERSON,
PHILLIPS LYTLE, LLP,
Et al.,

Defendants-Appellees

Appeal from the United States District Court for the Northern District of Georgia

---

BEFORE: HULL, MARCUS, and PRYOR, Circuit Judges.

BY THE COURT:

This appeal is DISMISSED sua sponte, for lack of jurisdiction. The district court's July 30, 2009, order is not final or immediately appealable because the order did not dispose of all the parties or claims, and the stay did not effectively put William M. Windsor out of court. See 28 U.S.C. § 1291; Moses H. Cone Mem'l Hosp. v. Mercury Constr. Corp., 460 U.S. 1, 10, 103 S.Ct. 927, 934, 74 L.Ed.2d 765 (1983); Haley v. City of Cumming, 69 F.3d 1098 (11th Cir. 1995); Atlantic Federal Sav. & Loan Ass'n b. Blythe Eastman Paine Webber, Inc., 890 F.2d 371, 375-376 (11th Cir. 1989); Am. Mfrs. Mut. Ins. Co. v. Edward D. Stone, Jr. & Assoc., 743 F.2d 1519, 1523-24 (11th Cir. 1984).

No motion for reconsideration may be filed unless it complies with the timing and other requirements of 11th Cir.R. 27-2 and all other applicable rules.

FILED
U.S.COURT OF APPEALS
ELEVENTH CIRCUIT

Sep 8 2009

THOMAS K. KAHN
CLERK

NO. 09-13998-A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

WILLIAM M. WINDSOR,
Plaintiff-Appellant,
versus
UNITED STATES OF AMERICA, et al,
Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia, Atlanta
Division
Civil Action No. 1:09-CV-02027-WSD

MOTION FOR RECONSIDERATION OF ORDER DATED SEPTEMBER 8, 2009

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PRO SE FOR PLAINTIFF - APPELLANT,
WILLIAM M. WINDSOR

CERTIFICATE OF INTERESTED PERSONS

William M. Windsor, Pro Se, hereby certifies pursuant to FRAP 26.1 and 11th Cir. Rule 26.1-1 that the following persons, judges, associations of person, firms, partnerships, or corporations may have an interest in the outcome of this case:

- Alcatraz Media, Inc., and Alcatraz Media, LLC, Defendants (jointly "Alcatraz")
- Anderson, Judge R. Lanier, United States Appellate Judge.
- Anderson, Jr., Carl Hugo ("Mr. Anderson"), Counsel for Appellees, Maid of the Mist Corp. and Maid of the Mist Steamboat Company, Ltd.
- Barkett, Judge Rosemary, United States Appellate Judge.
- Berry, Judith L. ("Berry"), customer of Alcatraz and Maid.
- Birch, Judge Stanley F., United States Appellate Judge.
- Black, Judge Susan H., United States Appellate Judge.
- Blackburn, Judge, United States District Judge.
- Bright, Sarah Louise ("Ms. Bright"), Counsel for Appellees, Maid of the Mist Corp. and Maid of the Mist Steamboat Company, Ltd.
- Brown, Marc W. ("Mr. Brown"), Counsel for Appellees, Maid of the Mist Corp. and Maid of the Mist Steamboat Company, Ltd.

- Carlson, Sandra ("Carlson"), Assistant Controller of Maid.
- Carnes, Judge Ed, United States Appellate Judge.
- Carnes, Judge, United States District Judge.
- Chambliss, Senator Saxby.
- Conway, Judge, United States District Judge.
- Cox, Judge Emmett Ripley, United States Appellate Judge.
- Dubina, Judge Joel F., United States Appellate Judge.
- Duffey, Hon. William S. ("Judge Duffey"), United States District Judge.
- Edmondson, Judge J.L., United States Appellate Judge.
- Evans, Hon. Orinda D. ("Judge Evans" or the "DC"), United States District Judge.
- Everybody Loves Travel, LLC, company owned by the owners of Defendants Alcatraz Media, Inc., and Alcatraz Media, LLC.
- Fay, Judge Peter T., United States Appellate Judge.
- Federal Bureau of Investigation ("FBI").
- Fuller, Judge, United States District Judge.
- Georgia Athletic and Entertainment Commission ("GAEC").
- Glynn, Christopher ("Glynn"), President of Maid.

- Godbold, Judge John C., United States Appellate Judge.
- Granade, Judge, United States District Judge.
- Hawkins & Parnell ("H&P"), Counsel for Appellees, Maid of the Mist Corp. and Maid of the Mist Steamboat Company, Ltd.
- Hill, Judge James C., United States Appellate Judge.

  Hull, Judge Frank M., United States Appellate Judge.
- Judicial Council of the Eleventh Circuit.
- Kravitch, Judge Phyllis A., United States Appellate Judge.
- Maid of the Mist Corporation ("Corporation"), Appellee, and Maid of the Mist Steamboat Company, Ltd. ("Steamboat"), Appellee, (jointly "Maid").
- Marcus, Judge Stanley, United States Appellate Judge.
- Mendell, Brett A. ("Mr. Mendell"), Former Counsel for Appellees, Maid of the Mist Corp. and Maid of the Mist Steamboat Company, Ltd.
- Mickle, Judge, United States District Judge.
- Moore, Judge, United States District Judge.
- National Association of Ticket Brokers.
- New York State Bar Association.

- New York State Office of Parks, Recreation and Historic Preservation
- New York State Comptroller's Office
- Niagara County New York District Attorney.
- Niagara Parks Commission
- Penland, James W. ("Mr. Penland"), Former Counsel for William M. Windsor, Appellant.
- Phillips Lytle ("Phillips"), Counsel for Appellees, Maid of the Mist Corp. and Maid of the Mist Steamboat Company, Ltd.
- Pryor, Judge William H., United States Appellate Judge.
- Raley, G. Brian ("Mr. Raley"), Former Counsel for Defendants Alcatraz Media, Inc., and Alcatraz Media, LLC.
- Reserve 123, Inc., a company owned by the owners of Defendants Alcatraz Media, Inc., and Alcatraz Media, LLC.
- Reserve XL, Inc., a company owned by the owners of Defendants, Alcatraz Media, Inc., and Alcatraz Media LLC.
- Round America, LLC, a company owned by William M. Windsor.
- Royal, Judge, United States District Judge.
- Ruddy, Timothy P. ("Ruddy"), Vice-President of Maid.
- Russ, Arthur ("Mr. Russ"), Counsel for Appellees, Maid of the Mist Corp. and Maid of the Mist Steamboat Company, Ltd.

- Schul, Robert J. ("Schul"), Controller of Maid.
- State Bar of Georgia.
- Sullivan, Kathleen E. ("Ms. Sullivan"), Former Counsel for Defendants Alcatraz Media, Inc., and Alcatraz Media, LLC.
- Take 5 Tours, Inc., a company owned by the owners of Defendants Alcatraz Media, Inc., and Alcatraz Media, LLC.
- Tjoflat, Judge Gerald Bard, United States Appellate Judge.
- United States Attorney General.
- United States Attorney's Office.
- United States Supreme Court.
- Wilson, Judge Charles R., United States Appellate Judge.
- Windsor, William M. ("Windsor or Appellant"), Defendant and Appellant. (Defendants Alcatraz and Windsor are reflected herein as "A&W.")
- ZZ Tours, Inc., a company owned by William M. Windsor.

No corporate disclosure statement is necessary for this party because Windsor is a natural, human, person.

Respectfully submitted this 15th day of September, 2009.

William M. Windsor, Pro Se

/s_____
William M. Windsor
Pro Se

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Email: bill@billwindsor.com

Comes now Appellant William M. Windsor ("Windsor" or "Appellant") in the above-named appeal and files a Motion for Reconsideration of the "Order of Dismissal" of this Court dated September 8, 2009. [Exhibit A.]

1. This Court may be confused over the subject matter of this Appeal. As the Court DISMISSED the appeal before Windsor had an opportunity to clarify the issues in his Brief, Windsor requests the Court's reconsideration of the issues.

2. On July 30, 2009, the District Court issued orders during a Temporary Restraining Order Hearing. Some of those rulings were memorialized in an order distributed at the end of the Hearing [Docket 22] while the TRO order was given orally during the Hearing [Docket 31 and 48]. The Transcript of the Temporary restraining Order Hearing is attached hereto as Exhibit B.

3. The District Court subsequently issued an order titled "Order Denying Motion for Temporary Restraining Order and Interlocutory Injunction on August 4, 2009 to clarify [Docket 32].

4. This Appeal of the "orders of July 30, 2009" was delivered to the District Court Clerk on July 31, 2009, but due to the District Court's order requiring that all filings be first submitted as Requests for Approval, the District Court Clerk did not officially file it until August 5, 2009 [Docket 37]. The District Court Clerk failed to list the order regarding the Motion for Temporary Restraining

Order on Docket 37.

5. Windsor sent a letter to the District Court Clerk to inform the Clerk of the oversight. This letter is attached hereto as Exhibit C.

6. So, the issues for appeal are:

a. Order denying Motion to Approve Service on Canadian Parties [Docket 3.]
b. Order denying Motion for Waiver of Representation by Counsel [Docket 7.]
c. Order denying Motion for Change of Venue [Docket 15.]
d. Order denying Motion for Recusal [Docket 17.]
e. Order denying Motion for Temporary Restraining Order and Interlocutory Injunction [Docket 11, 22, 31, and 32.]
f. Order requiring that all motions be submitted as Requests for Approval [Docket 22.]
g. Order instructing Defendants to file Motions to Dismiss [Docket 22.]
h. Order delaying requirement of Answers from the Defendants [Docket 22.]
i. Order reducing the amount of time Windsor had to serve the Complaint on the various Defendants [Docket 22.]
j. Order issuing a Stay [Docket 22.]

7. The only issue directly addressed in the Order of Dismissal is the stay, which Windsor only planned to raise as an issue in this Appeal as it related to Judge Duffey's unauthorized amendment to the Federal Rules of Civil Procedure.

8. 28 U.S.C. §1291 provides that the courts of appeals shall have jurisdiction of appeals from Interlocutory orders of the district courts refusing injunctions. Therefore, it was improper to dismiss this Appeal. See Order denying Motion for Temporary Restraining Order and Interlocutory Injunction [Docket 11, 22, 31, and 32.]

9. In the Order of Dismissal, this Court has claimed that the District Court's Order is not final or immediately appealable. This is false.

> "In interpreting the final judgment rule expressed in section 1291, however, the Supreme Court has demonstrated that 'the statutory requirement of finality is a flexible concept, grounded in the practicalities of the situation.' (*In re Martin Bros. Toolmakers, Inc.*, 796 F.2d 1435, 1437 (11th Cir.1986).) The Court has fashioned three types of exceptions to the final judgment rule: the collateral order doctrine, the doctrine of practical finality, and the exception for intermediate resolution of issues fundamental to the merits of the case." (*Atlantic Federal Sav. & Loan Ass'n v. Blythe Eastman Paine Webber, Inc.*, 890 F.2d 371 (11th Cir. 1989).) [Please note: This is one of the cases cited by

this Court in the Order of Dismissal.]

In *Cohen v. Beneficial Indus. Loan Corp.*, 337 U.S. 541, 546, 69 S.Ct. 1221, 1225-26, 93 L.Ed. 1528 (1949), the Supreme Court created the collateral order doctrine permitting review of an interlocutory order if it involves a separable claim that has been conclusively determined and is collateral to the merits, too important to be denied review, and too independent of the merits to defer review until a final decision has been rendered. The Court restated its position in *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 468, 98 S.Ct. 2454, 2457-58, 57 L.Ed.2d 351 (1978), allowing review of non-final orders which conclusively determine a disputed question, resolve an important issue completely separate from the merits, and are effectively unreviewable on appeal from final judgment. (*Atlantic Federal Sav. & Loan Ass'n v. Blythe Eastman Paine Webber, Inc.*, 890 F.2d 371 (11th Cir. 1989).)

Gillespie v. U.S. Steel Corp., 379 U.S. 148, 153-54, 85 S.Ct. 308, 311-12, 13 L.Ed.2d 199 (1964), provides that even an order of marginal finality should be accorded immediate review if the question presented is fundamental to further conduct of the case. See also *In re Martin Bros.*, 796 F.2d at 1437. (*Atlantic Federal Sav. & Loan Ass'n v. Blythe Eastman Paine Webber, Inc.*, 890 F.2d 371 (11th Cir. 1989).)

> The Supreme Court will not limit appellate review to "those final judgments which terminate an action . . . ," *Cohen v. Beneficial Loan Corp.*, 337 U.S., at 545, but rather that the requirement of finality is to be given a "practical rather than a technical construction." Id., at 546. The inquiry requires some evaluation of the competing considerations underlying all questions of finality — "the inconvenience and costs of piecemeal review on the one hand and the danger of denying justice by delay on the other." (*Dickinson v. Petroleum Conversion Corp.*,338 U.S. 507, 511 (1950) (footnote omitted).)
>
> This Court has held that the requirement of finality is to be given a "practical, rather than a technical, construction." *Cohen v. Beneficial Loan Corp., supra,* 337 U.S. at 337 U. S. 546. *See also* ***Brown Shoe Co. v. United States,*** 370 U. S. 294, 370 U. S. 306; *67 U. S. 531;* 47 U. S. 203; ***Dickinson v. Petroleum Conversion Corp.,*** 338 U. S. 507, 338 U. S. 511. (Gillespie v. U.S. Steel Corp, 379 U.S. 148 (1964).)

10. Windsor does not take the position that all of these issues imposed by the district court are appealable at this time, but some should be subject to immediate review.

11. The collateral order doctrine applies if the order being appealed conclusively settles a disputed question. *Coopers & Lybrand*, 437 U.S. at

468, 98 S.Ct. at 2457 58; see also *Cohen*, 337 U.S. at 546, 69 S.Ct. at 1225-26.

12. The order issued by the District Court on July 30, 2009 finally resolves the issue of the opportunity of Alcatraz Media to join this litigation. The District Court denied Alcatraz Media the right to represent itself pro se despite the fact that every attorney contacted refused to represent Alcatraz because of fear of retribution from federal judges.

13. The statute of limitations will block Alcatraz from action in the future, and this will irreparably harm Alcatraz Media, and this presents questions which are fundamental to further conduct of the case.

14. Section 1654 of title 28 of the United States Code provides: "In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein."

15. "The parties may plead and conduct their own cases personally." This statute does not say individual parties or corporate parties, it broadly says "parties." Windsor submits that it is a violation of the law and civil and Constitutional rights to deny Alcatraz the ability to represent itself in this case. The Constitution guarantees the right of due process, but due process is immediately denied if a corporation such as Alcatraz is unable to get an attorney to represent it for this type of action. Windsor cannot find any case law that addresses

this specific issue. Windsor intends to take this issue to the Supreme Court if Alcatraz is denied at the Eleventh Circuit.

16. The right of a party to a legal action to represent his or her own cause has long been recognized in the United States, and even predates the ratification of the Constitution. The Supreme Court noted that "[i]n the federal courts, the right of self-representation has been protected by statute since the beginnings of our Nation. Section 35 of the Judiciary Act of 1789, 1 Stat. 73, 92, enacted by the First Congress and signed by President Washington one day before the Sixth Amendment was proposed, provided that 'in all the courts of the United States, the parties may plead and manage their own causes personally or by the assistance of counsel.'" (***Faretta v. California***, 422 U.S. 806, 813 (1975).) This statute and the Bill of Rights were considered necessary in order to get support for the new Constitution.

17. Windsor requests that this Motion for Reconsideration be granted and that the Order of Dismissal be vacated so Windsor may file his Appeal Brief on this and other issues.

18. ***Cohen*** and ***Coopers & Lybrand*** both require that to assume jurisdiction over a collateral order, that order must decide an important issue. Several of the issues in the orders of July 30, 2009 constitute issues of sufficient import to warrant interlocutory review, including, but not limited to, the right of Alcatraz Media to join as a Plaintiff and the Change of Venue.

19. Windsor is convinced that he will not be treated fairly or impartially in the Northern District of Georgia or the Eleventh Circuit. This is an issue of the "danger of denying justice."

20. The District Court's Order requiring that all motions be submitted as Requests for Approval, the District Court's Order instructing Defendants to file Motions to Dismiss, the District Court's Order delaying requirement of Answers from the Defendants, and the District Court's Order reducing the amount of time Windsor had to serve the Complaint on the various Defendants are all orders that significantly impact this Civil Action. These all deny justice. Harm to Windsor has already been inflicted on each of these points, and the damage increases with each passing day. Appealing these issues after the case is over will not erase the prejudice and damage that has been done. Surely the District Court does not have the right to unilaterally amend the Federal Rules of Civil Procedure as these actions have done.

21. The exception for intermediate resolution of issues fundamental to the merits of the case is also important. (*Atlantic Federal Sav. & Loan Ass'n v. Blythe Eastman Paine Webber, Inc.*, 890 F.2d 371 (11th Cir. 1989).) The right of Alcatraz Media to join as a Plaintiff, the denial of a Temporary Restraining Order and the District Court's failure to schedule a Preliminary Injunction Hearing, the District Court's Order denying Motion for Change of Venue, and the District Court's Order denying Motion for Recusal are all fundamental issues affecting the merits of the case.

22. Windsor objects to the treatment of pro se parties in the Eleventh Circuit. Windsor believes the Order of Dismissal was probably issued primarily as a means of discriminating against a pro se party. Windsor believes this is a regular practice of the Eleventh Circuit.

23. In theory, statutes, prevailing case law, and the rules of court apply to all litigants equally. The Federal Rules of Civil Procedure and the Federal Rules of Appellate Procedure do not distinguish between a self represented litigant and a lawyer represented litigant. However, the Federal Judicial Center reports that appellate courts use different procedures in cases brought by lawyers and in cases in which one party is self-represented, even if the self-representing party is a free citizen and pays the full filing fee. The results are usually unpublished.

24. Pro se litigants are not only denied impartial judges, they are denied any judges at all.

25. In the D.C. Court of Appeals, the staff lawyers prepare all pro se cases for "nonargument disposition."

26. In the first circuit, pro se cases are referred to staff lawyers to prepare for non-argument disposition. Briefed pro se cases are routed automatically to staff lawyers for memorandum and draft disposition.

27. In the 2nd circuit, cases in which a party is pro se are not referred to the conference lawyers for mediation. Staff lawyers decide procedural motions in pro se cases and law clerks analyze all pro se issues and draft proposed orders. Correspondence from pro ses is handled by the clerk's office.

28. The third circuit employs a mediation counselor to handle mediation but only in counseled cases. All motions from counseled cases are referred to judges, but all pro se motions are screened by staff. Almost always in pro se appeals, a memorandum opinion is drafted by staff not by the judges.

29. In the 4th Circuit, all pro se appeals are referred to staff.

30. In the 6th Circuit, all cases in which appellants want oral argument are scheduled for oral argument except pro se cases. Pro se cases are referred to staff lawyers instead for disposition.

31. In the 8th Circuit, all pro se appeals are referred to staff for nonarugmentative disposition.

32. 10th Circuit will not consider pro se cases for mediation. In the 10th Circuit, most pro se cases are decided by screening panels.

33. Did Judges Hull, Marcus, and Pryor actually consider this Appeal, or is that a false statement in the Order of Dismissal?

34. In 2000, 7% of writs in civil litigation submitted to Louisiana courts pro se were granted, compared to 46% of writs submitted by counsel.

35. In the United States District Court for the Northern District of Georgia and the Eleventh Circuit, pro se Windsor has been repeatedly denied rights and abused. Windsor fully intends to file civil rights actions at the appropriate time.

36. The Affidavit of William M. Windsor is attached hereto as Exhibit D and incorporated herein.

37. Support for this Motion for Reconsideration is provided in Docket in 1:06-CV-0714-ODE, 1:09-CV-01543-WSD, and 1:09 CV-02027-WSD. The entire dockets in each of these civil actions are incorporated herein by reference and should be considered as if attached to this Motion.

WHEREFORE, Windsor requests that this Court do as follows:

(1) grant this Motion for Reconsideration; specify which of the issues in paragraph 6 should be addressed in Windsor's Brief;
(2) vacate the Order of Dismissal dated September 8, 2009;
(3) extend the time for Windsor's Brief to be filed due to this delay; and
(4) grant such other relief as the Court deems appropriate.

Respectfully submitted, this 15th day of September, 2009.

/s_____
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CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATION, TYPEFACE REQUIREMENTS, AND TYPE STYLE REQUIREMENTS

1. This motion complies with the type-volume limitation of Fed.R.App.P. 32(a)(7)(B) because:

__x__ this motion contains 11 pages, excluding the pages exempted by Fed.R.App.P. 32(a)(7)(B)(iii);

2. this brief complies with the typeface requirements of Fed.R.App.P. 32(a)(5) and the type style requirements of Fed.R.App.P. 32(a)(6) because:

__X__ this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2003 in font size 14, Microsoft Times New Roman font.

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September 15, 2009

CERTIFICATE OF SERVICE

I hereby certify that I have served the forgoing "MOTION TO RECONSIDER" by depositing a copy of the same in the United States mail in a properly addressed envelope with adequate prepaid postage thereon to ensure delivery to the following:

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This 15th day of September, 2009.

William M. Windsor

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09 CV 02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

PLAINTIFF WILLIAM M. WINDSOR'S MOTION TO RECUSE JUDGE WILLIAM S. DUFFEY

Comes Now Plaintiff William M. Windsor

("Windsor" or "Plaintiff"), and asks that Judge William S. Duffey ("Judge Duffey") be recused from the above entitled matter under 28 U.S.C. SECTION 455 of the United State Code, Canons of the Code of Judicial Conduct, Rules of the State Bar of Georgia Code of Professional Conduct, all other relevant statutory and state and federal case law, as well as the Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, the Constitution of the State of Georgia, and the Court's inherent powers. Judge Duffey has a preconceived idea of this case from information that has come from outside the case. Judge Duffey has previously called the Plaintiff "scurrilous and irresponsible" when the Plaintiff was simply attempting to take the deposition of Judge Evans.

The Plaintiff has alleged that Judge Orinda D. Evans ("Judge Evans") has committed perjury and obstruction of justice. Judge Evans has included absolutely false information in two orders - information that she knew was false. Judge Evans has withheld evidence from the Plaintiff and Alcatraz. Judge Evans has demonstrated pervasive bias throughout the proceeding. Judge Evans has demonstrated a personal bias in favor of Maid of the Mist Corporation and Maid of the Mist Steamboat Company, Ltd (jointly "Maid") and a prejudice against the Plaintiff and Alcatraz. Judge Evans has not demonstrated the impartiality required of a judge. Windsor has filed a Complaint for Professional Misconduct against Judge Evans and other officers of the court in Civil Action 1:06-CV-0714-ODE ("MIST 1") pursuant to Local Rule 83.1C. Judge Duffey ignored all of this.

1. Windsor has filed a Motion to Recuse Judge Duffey in this Civil Action.

2. Exhibit A is an order signed by Judge Duffey against the Plaintiff in another Civil Action. Exhibit A is incorporated herein.

3. Exhibit B is a Motion for Reconsideration filed by Windsor in response to Judge Duffey's order. Exhibit B is incorporated herein.

4. Exhibit C is the Fifth Declaration of William M. Windsor. Exhibit C is incorporated herein.

THIS MOTION IS PROCEDURALLY ADEQUATE.

5. The standard of review in asking a judge to recuse is defined by the Code of Judicial Conduct.

6. This Court must determine if the motion is procedurally adequate. This Motion to Recuse is procedurally adequate. The Motion alleges facts that warrant disqualification for cause pursuant to the statutes. This is a proper application for a change of judge, and Judge Duffey no longer has jurisdiction to proceed in the action in which his impartiality is questioned.

FAILURE TO FOLLOW PROPER PROCEDURE WILL CAUSE JUDGE DUFFEY TO BE ACTING IN ABSENCE OF JURISDICTION.

7. Failure to follow proper procedure will result in a violation of the Plaintiff's civil rights where Judge Duffey will be acting in the absence of all jurisdiction.

8. The Supreme Court has expressed that Judge Duffey may proceed no further in this case. "Upon the filing of an affidavit of a party to a case in the district court...averring the affiant's belief that the judge before whom the case is to be tried has a personal bias or prejudice against him, and stating facts and reasons, substantial in character and which, if true, fairly establish a mental attitude of the judge against the affiant which may prevent impartiality of judgment, it becomes the duty of the judge to retire from the case." ***Berger v. United States***, 255 U. S. 22 (1921).

9. The Supreme Court adopted the federal procedure for dealing with the problem "that is, when a trial judge in a case pending in that court is presented' with a motion to recuse accompanied by an affidavit, the judge's duty will be limited to passing upon the legal sufficiency of the affidavit, and if, assuming all the facts alleged in the affidavit to be true, recusal would be warranted, then another judge must be assigned to hear the motion to recuse." ***State v. Fleming***, 245 Ga. 700, 702 (267 SE2d 207) (1980). ***Riggins v. The State***, (*159 Ga. App. 791*), (*285 SE2d 579*), (1981).

10. The burden placed on a new judge is nothing compared to the burden placed on the Plaintiff in the violation of his constitutional and

civil rights and violation of the law if Judge Duffey again summarily dismisses motions.

WINDSOR HAS ASSERTED VALID FACTUAL AND LEGAL GROUNDS TO RECUSE JUDGE DUFFEY FROM THIS CASE.

11. Windsor has articulated facts and legally cognizable grounds to disqualify Judge Duffey. A judge's refusal to recuse him or herself is reviewed under an abuse of discretion standard. *United States v. Greenough*, 782 F.2d 1556, 1558 (11th Cir. 1986). The standard "is an objective one, whether a reasonable person knowing all the facts would conclude that the judge's impartiality might reasonably be questioned." *Id.*

12. Georgia courts have defined "impartiality might reasonably be questioned" as a "reasonable perception, of a lack of impartiality by the judge, held by a fair minded and impartial person based upon objective fact or reasonable inference." *King v. State*, 246 Ga. 386 (1980).

13. Some cases say the bias of a judge must be the result of an opinion on the merits on some basis other than what the judge learned from his participation in the case. Judge Duffey has demonstrated bias before hearing anything about this case.

14. Windsor's motion for recusal is not based solely on Judge Duffey's prior rulings in this case because he has made no rulings.

THE IMPARTIALITY OF JUDGE DUFFEY MUST BE QUESTIONED.

15. In support of this Motion, the Plaintiff relies on Title 28 of the United States Code (the Judicial Code) that provides standards for judicial disqualification or recusal. Section 455, a federal judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." The same section also provides that a judge is disqualified "where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

16. An objective observer, lay observer, and/or disinterested observer must entertain significant doubt of the impartiality of Judge Duffey.

> "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned."
>
> "Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality...to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." [Emphasis added]. **Liteky v. U.S.**, 114 S.Ct. 1147, 1162 (1994).
>
> "...an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's

impartiality". See ***Parker v. Connors Steel Co.***, 855 F.2d 1510 (11th Cir.) (1988) citing ***Potashnick v. Port City Const. Co.,*** 609 F.2d 1101, 1111 (5th Cir.), cert. denied, 449 U.S. 820, 101 S.Ct. 78, 66 L.Ed. 2d 22 (1980).

"When a trial judge in a case pending in that court is presented with a motion to recuse accompanied by an affidavit, the judge's duty will be limited to passing upon the legal sufficiency of the affidavit, and if, assuming all the facts alleged in the affidavit to be true, recusal would be warranted, then another judge must be assigned to hear the motion to recuse." (Citation and punctuation omitted.) ***State v. Davis***, *159 Ga. App. 537*, 539 (3) (*284 SE2d 51*) (1981). Canon 3 C. (1) (a) of the Code of Judicial Conduct states: "Judges should disqualify themselves in proceedings in which their impartiality might reasonably be questioned, including but not limited to instance where: . . . the judge has a personal bias or prejudice concerning a party or a party's lawyer . . . ." "We interpret the word 'should' to mean 'shall' in the context of this requirement." ***Savage v. Savage***, *234 Ga. 853*, 856 (*218 SE2d 568*) (1975). ***Houston v. Cavanagh et al.***, (*199 Ga. App. 387*), (*405 SE2d 105*), (1991).

17. ANY doubt regarding whether recusal is required must be resolved in favor of recusal. Section 455 creates a "self-enforcing obligation" for judges to recuse themselves, and doubt regarding whether recusal is required must be resolved in

favor of recusal. *Murray v. Scott*, 253 F.3d 1308, 1310 (11th Cir. 2001). Once one of the enumerated circumstances in § 455(b) is established, "there can be no dispute about the propriety of recusal," which is mandatory. *Patti*, 337 F.3d at 1321-22; *Murray*, 253 F.3d at 1312.

TO AVOID THE APPEARANCE OF IMPROPRIETY, JUDGE DUFFEY MUST BE RECUSED.

18. "Canon 2 [of the Code of Conduct for United States Judges] tells judges to 'avoid impropriety and the appearance of impropriety in all activities,' on the bench and off." *United States v. Microsoft Corp.*, 346 U.S. App. D.C. 330, 253 F.3d 34, 107 (D.C. Cir. 2001). Pursuant to 28 U.S.C. § 455(a), "any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." "To disqualify a judge under § 455(a), the bias 'must stem from extrajudicial sources, unless the judge's acts demonstrate such pervasive bias and prejudice that it unfairly prejudices one of the parties.'" *United States v. Berger*, 375 F.3d 1223, 1227 (11th Cir. 2004) (quotation omitted).

JUDGE DUFFEY HAS DEMONSTRATED EXTRAJUDICIAL BIAS.

19. The bias of Judge Duffey stems from extrajudicial sources. He has demonstrated a bias against pro se parties and against anyone who would have the audacity to accuse a federal judge of wrongdoing.

THE PLAINTIFF MUST ALSO ARGUE FOR EXTENDING, MODIFYING, OR REVERSING EXISTING LAW OR FOR ESTABLISHING NEW LAW.

20. The Plaintiff must also argue for extending, modifying, or reversing existing law or for establishing new law. The whole idea of justice requires a fair trial with an impartial judge. When the judge is so obviously biased that the judge ignores the facts, it really shouldn't matter where the bias comes from.

THE STANDARD FOR REVIEW: AN OBJECTIVE OBSERVER – A REASONABLE PERSON

21. Under 28 U.S.C. § 455(a), the standard is whether an objective, fully informed lay observer would entertain significant doubt about the judge's impartiality." ***Christo v. Padgett***, 223 F.3d 1324, 1333 (11th Cir. 2000), cert. denied, 531 U.S. 1191, 121 S. Ct. 1190, 149 L. Ed. 2d 106 (2001). In deciding whether a district judge should recuse himself under § 455(a), we consider whether "an objective, disinterested, lay observer fully informed of the facts underlying the grounds on which recusal was sought would entertain a significant doubt about the judge's impartiality." ***United States v. Patti***, 337 F.3d 1317, 1321 (11th Cir. 2003) (citation omitted). ***Summers v. Singletary***, 119 F.3d 917, 920 (11th Cir. 1997). Recusal under Section 455(a) "should follow if the reasonable man, were he to know all the circumstances, would harbor doubts

about the judge's impartiality." ***United States v. Alabama***, 828 F.2d at 1541 (internal quotation marks omitted) (quoting ***Potashnick v. Port City Constr. Co.***, 609 F.2d 1101, 1111 (5th Cir. 1980)).

22. If we apply the reasonable person analysis to this situation, any reasonable person would question the impartiality of Judge Duffey.

23. "The general rule is that bias sufficient to disqualify a judge must stem from extrajudicial sources." ***Hamm v. Board of Regents***, 708 F.2d 647, 651 (11th Cir. 1983). The exception to this rule is "when a judge's remarks in a judicial context demonstrate such pervasive bias and prejudice that it constitutes bias against a party." Id.

24. "To disqualify a judge under § 455(a), the bias "must stem from extra judicial sources, unless the judge's acts demonstrate such pervasive bias and prejudice that it unfairly prejudices one of the parties." ***Bailey***, 175 F.3d at 968 (internal quotation marks omitted). ***United States v. Ramos***, 933 F.2d 968, 973 (11th Cir.1991).

25. The actions of Judge Duffey displayed deep-seated and unequivocal antagonism that would render fair judgment impossible. ***Liteky v. United States***, 510 U.S. 540, 556, 114 S. Ct. 1147, 1158, 127 L. Ed. 2d 474 (1994).

26. The bias comes from sources "extrajudicial" to this Civil Action. Judge Duffey

enters this Civil Action with an established bias against the Plaintiff.

27. After being presented with a motion for recusal under USCR 25.1, the trial judge has the duty to determine whether, assuming the truth of the facts alleged, a reasonable person might conclude that the judge harbors bias, stemming from an extrajudicial source, which is of a nature and intensity as would interfere with the exercise of impartial judgment. ***Wellons v. State***, 266 Ga 77, 88 (18) (463 SE2d 868) (1995). If the affidavit is found to be sufficient, then the matter is referred to another judge for a hearing. See USCR 25.3; ***State v. Fleming***, 245 Ga. 700 (267 SE2d 207) (1980). USCR 25.2 requires that the affidavit "state the facts and reasons for the belief that bias or prejudice exists, being definite and specific as to time, place, persons and circumstances of extra-judicial conduct or statements . . . which would influence the judge and impede or prevent impartiality in that action. Allegations consisting of bare conclusions and opinions shall not be legally sufficient to support the motion or warrant further proceedings."

28. The Motion to Recuse Judge Duffey and this Affidavit show grounds for recusal of Judge Duffey who has behaved in a manner inconsistent with that which is needed for a full, fair, impartial decision.

JUDGE DUFFEY ESTABLISHED A FIXED VIEW ABOUT SUBSTANTIVE PENDING TRIAL MATTERS.

29. Judge Duffey has established a fixed view about substantive pending trial matters.

30. Judge Duffey has established a position prior to this proceeding that the Plaintiff is wrong and that his case does not matter.

31. Judge Duffey has indicated to the Plaintiff that he is biased against pro se parties and against anyone who would have the audacity of accusing a federal judge of wrongdoing.

> *See*, ***Inre Murchison***, 349 U.S. 133, 136, 755 S.Ct. 623, 99 L.Ed. 942 (1955); ***Liljeberg v.Health Services. Acquisition Corp.***, 486 U.S. 847, 869-70 (1988); ***Rice v. McKenzie***, 581 F.2d 1114, 1116-17 (4th Cir. 1978); *accord* ***Withrow v. Larkin***, 421 U.S. 35, 47 (1975).
>
> "The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law."
>
> The above is applicable to this court by application of Article VI of the United States Constitution and ***Stone v Powell***, 428 US 465, 483 n. 35, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976).

32. The United States Constitution guarantees an unbiased Judge who will always provide litigants with full protection of ALL RIGHTS. Therefore, the Plaintiff respectfully demands that Judge Duffey recuse himself in light of

the evidence that gives the Plaintiff good reason to believe that Judge Duffey cannot hear this case in a fair and impartial manner.

33. Judge Evans ignored lies, perjury, false sworn pleadings, false statements of fact, and Rule 11 violations in the hundreds by Maid in Civil Action No. 1:06-CV-0714-ODE ("MIST-1").

34. The abuse of the legal system, Windsor, and Alcatraz in the original civil action is staggering.

35. These violations were presented to Judge Duffey in motions and affidavits. Judge Duffey did nothing. How can a judge hear that a party has lied hundreds of times and do nothing? How can a judge hear that another judge has had as many as 200 false statements in orders granting preliminary injunction and summary judgment? This is wrong.

36. The Plaintiff believes that Judge Duffey will violate the Plaintiff's civil and constitutional rights under color of law and will deny due process.

> "The Due Process Clause serves two purposes...One is to produce, through the use of fair procedures to prevent the wrongful deprivation of interests; ...the other is a guarantee of basic fairness, i.e.: to make people feel that they have been treated fairly."
>
> "[t]rial before an 'unbiased judge' is essential to due process." *Johnson v. Mississippi*, 403 U.S. 212, 216 (1971); accord *Concrete Pipe &*

Prods. V. Constr. Laborers Pension Trust, 508 U.S. 602, 617 (1993) "due process requires a neutral and detached judge in the first instance." (citation omitted)

"justice must give the appearance of justice" *Levine v. United States,* 362 U.S. 610, 80 S.Ct. 1038 (1960), citing *Offutt v. United States*, 348 U.S. 11, 14, 75 S. Ct. 11, 13 (1954).

See *Mathews v. Eldridge*, 424 U.S. 319, 344 (1976)..., by ensuring that no person will be deprived of his interests in the absence of a proceeding in which he may present his case with assurance that the arbiter is not predisposed to find against him."

"even if there is now showing of actual bias", "due process is denied by circumstances that create the likelihood or the appearance if bias" *Peters v. Kiff*, 407, U.S. 493, 502 (1972)

37. The Plaintiff has just cause to believe that the the Plaintiff cannot have a fair trial due to issues alleged.

38. The system used by the United States District Court for the Northern District of Georgia in assigning pro se cases to only Judge Duffey is unfair and is a violation of the Civil and Constitutional rights of the Plaintiff. The purposes in rotating assignment of judges is to spread the cases around, make it impossible for attorneys to pick a judge, and provide impartiality. This system forces the pro se Plaintiff to go before biased Judge Duffey on every

action that he files.

39. The due process clauses of both the Georgia and the United States Constitutions guarantee a party an impartial and disinterested tribunal in civil cases. ***Marshall v. Jerrico, Inc.***, 446 U.S. 238, 242, 100 S.Ct. 1610, 1613 (1980). [Dec #50 ¶62.]

STANDARD OF REVIEW

40. The standard of review in asking a judge to recuse is defined by Canon 3(C) which states: [Dec #50 ¶65.]

> "A judge should recuse in a proceeding in which the judges impartiality might reasonably be questioned..." This includes when a judge has "displayed deep-seated and unequivocal antagonism that would render fair judgment impossible." The test under the canon is whether a reasonable person would have a factual basis to doubt the judge's impartiality.
>
> It is vital to public confidence in the legal system that decisions of the court are not only fair, but also appear fair. The standard of review should be liberal construction in favor of the right to disqualify.
>
> Thus, whether the disqualification of a judge hinges on a statute or on a rule, the Court should adhere to the liberal construction of that statute or rule in favor of the right to

disqualify. A liberal construction is necessary if we wish to promote and maintain public confidence in the judicial system.

41. In addition, the Code of Judicial Conduct provides that:

> "...judge should disqualify himself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances" specified in the rule. Thus, the canon is broader than the statute. First, the four subparagraphs of Rule 2, Canon 3C(1), which set forth the circumstances for disqualification, are a clear directive to disqualify. ***Berry***, 654 S.W.2d at 163 (Dixon, J., concurring). When one of these causes to recuse appears, a judge must do so. Id. Moreover, the phrase, "including but not limited," signifies that a judge's duty to disqualify is not confined to the factors listed in the subparagraphs, but is much broader. Second, Rule 2, Canon 3C(1) commands the disqualification of a judge if "his impartiality might reasonably be questioned." See ***Grant v. State***, 700 S.W.2d 170, 171 (Mo. App. 1985). Thus, under the canon, the test is not whether actual bias and prejudice exist, but whether a reasonable person would have factual grounds to doubt the impartiality of the court. ***Berry***, 654 S.W.2d at 164 (Dixon, J., concurring). If, on the record, a reasonable person would find an appearance of impropriety, the canon compels recusal. Id.

> The question is not whether the judge is impartial in fact. It is simply whether another, not knowing whether or not the judge is actually impartial, might reasonably question his impartiality on the basis of all the circumstances.
>
> When a party seeks to disqualify a judge for cause, the judge should adhere to the following procedures. First, the challenged judge should determine if the motion is procedurally adequate. Next, the judge should determine whether the petition is substantively adequate: Does the petition allege facts which warrant disqualification for cause pursuant to the statutes? If the motion is procedurally and substantively sufficient, the judge is faced with two options: either to grant the motion; or, if the facts in the motion are to be controverted, to hold a hearing on the record, whether requested or not, to determine the disqualification issue. If the challenged judge is to testify, the hearing must be held before another judge. These minimal procedures are necessary because, in the face of a proper application for a change of judge because the judge lacks jurisdiction to proceed in the action in which his impartiality is questioned. [Dec #50 ¶66.]

42. The Plaintiff contends that the average reasonable person, knowing all the facts, would easily conclude that Judge Duffey's impartiality could be questioned. The Plaintiff contends that any reasonable person would conclude that Judge Duffey

cannot possibly give the Plaintiff a fair and impartial hearing and that he should be removed and replaced by an impartial judge.

> ("The probability of actual bias on the part of the judge . . . is too high to be constitutionally tolerable"); *Berger v. United States*, 255 U.S. 22, 33-34 (1921); *Potashnick v. Port City Constr. Co.*, 609 F.2d 1101, 1111 (5th Cir. 1980) ("Any question of a judge's impartiality threatens the purity of the judicial process and its institutions"); *King v. State*, 246 Ga. 386, 389-90, 271 S.E.2d 630 (1980); *Hall v. Small Bus. Admin.*, 695 F.2d 175, 179 (5th Cir. 1983) (disqualification of a judge required "if a reasonable person, knowing all the circumstances, would harbor doubts about his impartiality"); *United States v. Columbia Broad. Sys., Inc.*, 497 F.2d 107, 109 (5th Cir. 1974) ("The protection of the integrity and dignity of the judicial process from any hint or appearance of bias is the palladium of our judicial system"); *Stephens v. Stephens*, 249 Ga. 700, 702, 292 S.E.2d 689, 691 (1982). ("All parties before the court have the right to an impartial judicial officer."); *Isaacs v. State*, 257 Ga. 126, 127, 355 S.E.2d 644 (1987) ("The fact that a judge's impartiality might reasonably be questioned is sufficient for disqualification."; a judge may not be so personally involved in a controversy "that his objectivity could reasonably be questioned.").

43. Judge Duffey has demonstrated prejudice against the Plaintiff and must be removed from this case.

44. The support for this Motion is provided in the Docket in this Civil Action 1:09-CV-2027 I("MIST-1"); all motions and affidavits are referenced herein and made a part of this affidavit as if attached hereto. The support for this Motion is also provided in Docket 1:06-CV-0714-ODE, including the Motion to Strike filed [Evans Docket #456], the Reply to the Response to the Motion for Sanctions on Christopher Glynn [Evans Docket #442], the Reply to the Response to the Motion for Sanctions on Timothy P. Ruddy [Evans Docket #444], the Reply to the Response to the Motion for Sanctions on Robert J. Schul [Evans Docket #448], the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Christopher Glynn [Evans Docket #441], the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Timothy P. Ruddy [Evans Docket #445], the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Robert J. Schul [Evans Docket #450], the Reply to the Response to the Motion to Compel [Evans Docket #452], the Motion to Reopen Case [Evans Docket #362 and 366], the Motion to Recuse Judge Evans [Evans Docket #367], the Second Motion to Recuse Judge Evans filed June 4, 2009 [Evans Docket #406], the Motion for Sanctions under Rule 11 [Evans Docket #364], the Motion for Sanctions under Rule 37 [Evans Docket #363], the Motion for Sanctions against Christopher Glynn and Plaintiffs for Perjury and to Set Aside the Judgment and

Orders [Evans Docket #393], the Motion for Sanctions against Timothy P. Ruddy and Plaintiffs for Perjury and to Set Aside the Judgment and Orders [Evans Docket #396], the Motion for Sanctions against Robert J. Schul and Plaintiffs for Perjury and to Set Aside the Judgment and Orders [Evans Docket #400], the Motion to Compel [Evans Docket #404], Motion to Disqualify [Evans Docket #412], and the First ("Dec #1"), Second ("Dec #2"), Third ("Dec #3"), Third Amended ("Amended Dec #3"), Fourth ("Dec #4"), Fifth ("Dec #5"), Sixth ("Dec #6"), Seventh ("Dec #7"), Eighth ("Dec #8"), Ninth ("Dec #9"), Tenth ("Dec #10"), Eleventh ("Dec #11"), and Twelfth ("Dec #12"), Fourteenth ("Dec #14"), Fifteenth ("Dec #15"), Sixteenth ("Dec #16"), Seventeenth ("Dec #24"), Eighteenth ("Dec #18"), Nineteenth ("Dec #19"), Twentieth ("Dec #20"), Twenty-First ("Dec #21"), Twenty-Second ("Dec #22"), Twenty-Third ("Dec #23"), Twenty-Fourth ("Dec #24"), Twenty-Fifth ("Dec #25"), Twenty-Sixth ("Dec #26"), Thirty-Sixth ("Dec #36"), Thirty-Eighth ("Dec #38"), Thirty-Ninth ("Dec #39"), Fortieth ("Dec #40"), Forty-First ("Dec #41"), Forty-Second ("Dec #42"), Forty-Third ("Dec #43"), Forty-Fourth ("Dec #44"), Forty-Fifth ("Dec #45"), Forty-Sixth ("Dec #46"), Forty-Eighth ("Dec #48"), Forty-Ninth ("Dec #49"), AND Fiftieth ("Dec #50") Declarations of William M. Windsor and the exhibits thereto and citations therein, and any and all other Declarations filed or to be filed by Windsor in that Civil Action. Support for this Motion is also provided in Civil Action 1:09-CV-1543-WSD-WEJ in the Motion for Change of Venue filed on July 10, 2009, the Motion for Reconsideration of Order and Opinion and Judgment to Dismiss Action filed on

July 10, 2009, the Emergency Motion for Hearing [Duffey Docket #6], Motion to Disqualify [Duffey Docket #9], the Motion for Hearing [Duffey Docket #11], the Emergency Motion for Conference [Duffey Docket #13], the Motion for Reconsideration or Revision of Order Staying Case [Duffey Docket #15], the Motion to Disqualify Judge Evans [Duffey Docket #17], the Motion for Hearing [Duffey Docket #20], the response to the Emergency Motion to Quash [Duffey Docket #21], the Response to the Motion to Supplement [Duffey Docket #24], as well as the Twenty-Seventh ("Dec #27"), Twenty-Eighth ("Dec #28"), Twenty-Ninth ("Dec #29"), Thirtieth ("Dec #30"), Thirty-First ("Dec #31"), Thirty-Second ("Dec #32"), Thirty-Third ("Dec #33"), Thirty-Fourth ("Dec #34"), Thirty-Fifth ("Dec #35"), Thirty-Seventh ("Dec #37"), and Forty-Sixth ("Dec #46") Declarations of William M. Windsor and the exhibits thereto and citations therein filed in this Court. The foregoing Motions and Declarations are incorporated herein by reference and should be considered as if attached to this Motion. The Fifth Affidavit of William M. Windsor ("Aff #5") is attached hereto as Exhibit C.

WHEREFORE, having now filed this Motion and sworn declarations, Plaintiff Windsor respectfully requests as follows:

(1) that the presiding judge of this administrative judicial district assign another judge to this case or refer this Motion to the presiding judge of this administrative district for a hearing;

(2) that the Court grant PLAINTIFF WILLIAM M. WINDSOR'S MOTION TO RECUSE JUDGE WILLIAM S. DUFFEY;
(3) that the Court issue an order recusing Judge Duffey;
(4) that the Court grant such other and further relief as justice requires in association with this Motion.

Respectfully submitted, this 28th day of July 2009.

/s_____
William M. Windsor
Pro Se

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Email: bill@billwindsor.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF COMPLIANCE

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared in Times New Roman 14-point font, one of the font

and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

/s_____
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Pro Se

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
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PHILLIPS LYTLE, LLP,	)
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MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
_____	)

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of July 2009 I served **PLAINTIFF WILLIAM M.**

WINDSOR'S MOTION TO RECUSE JUDGE **WILLIAM S. DUFFEY** by hand delivery addressed to the following:

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This 28th day of July, 2009.

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Pro Se

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Email: bill@billwindsor.com

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
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CHRISTOPHER M. GLYNN,	)
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MAID OF THE MIST	)
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STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

PLAINTIFF WILLIAM M. WINDSOR'S MOTION FOR CHANGE OF VENUE AND MEMORANDUM OF LAW IN SUPPORT THEREOF

William M. Windsor hereby files

PLAINTIFF WILLIAM M. WINDSOR'S MOTION FOR CHANGE OF VENUE AND MEMORANDUM OF LAW IN SUPPORT THEREOF ("Motion for Change of Venue"). Windsor shows the Court as follows:

1. Windsor asks this Court to order a Change of Venue to transfer this Civil Action to another Federal District pursuant to Local Rule 3.1 B. (4) and any other Rules and Laws that this Court feels are appropriate. This Local Rule reads: "Any civil action may, by order of this court, be transferred to any other place...." This case needs to be moved to another Federal District because of prejudice in this District and in order to give Windsor any chance of a fair hearing. [Aff #4, ¶11.]

2. Support for this Motion for Change of Venue is provided in Civil Action 1:09-CV-1543-WSD-WEJ in the Motion for Change of Venue filed on July 10, 2009, the Motion for Reconsideration of Order and Opinion and Judgment to Dismiss Action filed on July 10, 2009, the Emergency Motion for Hearing [Duffey Docket #6], Motion to Disqualify [Duffey Docket #9], the Motion for Hearing [Duffey Docket #11], the Emergency Motion for Conference [Duffey Docket #13], the Motion for Reconsideration or Revision of Order Staying Case [Duffey Docket #15], the Motion to Disqualify Judge Evans [Duffey Docket #17], the Motion for Hearing [Duffey Docket #20], the response to the Emergency Motion to Quash [Duffey Docket #21], the Response to the Motion to Supplement [Duffey Docket #24], as well as the Twenty-Seventh ("Dec #27"), Twenty-Eighth ("Dec #28"), Twenty-Ninth ("Dec #29"), Thirtieth

("Dec #30"), Thirty-First ("Dec #31"), Thirty-Second ("Dec #32"), Thirty-Third ("Dec #33"), Thirty-Fourth ("Dec #34"), Thirty-Fifth ("Dec #35"), Thirty-Seventh ("Dec #37"), and Forty-Sixth ("Aff #4") Declarations of William M. Windsor and the exhibits thereto and citations therein filed in this Court. The legal support for this Motion for Change of Venue is also provided in Docket 1:06-CV-0714-ODE, including the Motion to Strike filed July 10, 2009, the Reply to the Response to the Motion for Sanctions on Christopher Glynn filed July 10, 2009, the Reply to the Response to the Motion for Sanctions on Timothy P. Ruddy filed July 10, 2009, the Reply to the Response to the Motion for Sanctions on Robert J. Schul filed July 10, 2009, the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Christopher Glynn filed July 10, 2009, the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Timothy P. Ruddy filed July 10, 2009, the Reply to the Response to the Motion for Hearing on the Motion for Sanctions on Robert J. Schul filed July 10, 2009, the Reply to the Response to the Motion to Compel filed July 10, 2009, the Motion to Reopen Case [Evans Docket #362 and 366], the Motion to Recuse Judge Evans [Evans Docket #367], the Second Motion to Recuse Judge Evans filed June 4, 2009 [Evans Docket #406], the Motion for Sanctions under Rule 11 [Evans Docket #364], the Motion for Sanctions under Rule 37 [Evans Docket #363], the Motion for Sanctions against Christopher Glynn and Plaintiffs for Perjury and to Set Aside the Judgment and Orders [Evans Docket #393], the Motion for Sanctions against Timothy P. Ruddy and Plaintiffs for Perjury and to Set Aside the Judgment and Orders [Evans Docket #396], the Motion for

Sanctions against Robert J. Schul and Plaintiffs for Perjury and to Set Aside the Judgment and Orders [Evans Docket #400], the Motion to Compel [Evans Docket #404], Motion to Disqualify [Evans Docket #412], and the First ("Dec #1"), Second ("Dec #2"), Third ("Dec #3"), Third Amended ("Amended Dec #3"), Fourth ("Dec #4"), Fifth ("Dec #5"), Sixth ("Dec #6"), Seventh ("Dec #7"), Eighth ("Dec #8"), Ninth ("Dec #9"), Tenth ("Dec #10"), Eleventh ("Dec #11"), and Twelfth ("Dec #12"), Fourteenth ("Dec #14"), Fifteenth ("Dec #15"), Sixteenth ("Dec #16"), Seventeenth ("Dec #24"), Eighteenth ("Dec #18"), Nineteenth ("Dec #19"), Twentieth ("Dec #20"), Twenty-First ("Dec #21"), Twenty-Second ("Dec #22"), Twenty-Third ("Dec #23"), Twenty-Fourth ("Dec #24"), Twenty Fifth ("Dec #25"), Twenty-Sixth ("Dec #26"), Thirty-Sixth ("Dec #36"), Thirty-Eighth ("Dec #38"), Thirty-Ninth ("Dec #39"), Fortieth ("Dec #40"), Forty-First ("Dec #41"), Forty-Second ("Dec #42"), Forty-Third ("Dec #43"), Forty-Fourth ("Dec #44"), and Forty-Fifth ("Dec #45") Declarations of William M. Windsor and the exhibits thereto and citations therein, and any and all other Declarations filed or to be filed by Windsor in that Civil Action. The foregoing Motions and Declarations are incorporated herein by reference and should be considered as if attached to this Motion. Aff #4 is attached hereto as Exhibit A. [Aff #4, ¶12.]

3. This Court has violated Local Rule 7.1 C of the Local Civil Rules for the United States District Court for the Northern District of Georgia in dealings with this Civil Action as well as Canons 1, 2, and 3 of the Code of Judicial Conduct. In the underlying case, Civil Action No. 1:06-CV-0714-ODE,

Judge Evans has violated Canons 1, 2, and 3 of the Code of Judicial Conduct and numerous rules of the Georgia Code of Professional Conduct. Windsor also submits that a Grand Jury should consider whether Judge Evans has committed the following violations of the law:

i. Deprivation of Rights – 21 USC § 1983;
ii. Fraud on the Court -- Rule 60(d)(3) of the Federal Rules of Civil Procedure;
iii. Perjury – O.C.G.A. 16-10-70 and USC 18 § 1621 and USC 18 § 1623;
iv. Subornation of Perjury – O.C.G.A. 16-10-72, USC 18 § 1622, O.C.G.A. 16-10-72, and O.C.G.A. 16-10-93;
v. Witness Tampering – O.C.G.A. 16-10-93 and 18 U.S.C. 1503;
vi. Obstruction Of Justice – influencing testimony –18 USC § 1512(b);
vii. Obstruction Of Justice – concealing documents –18 USC § 1512(c) and O.C.G.A. 16-10-93;
viii. Obstruction Of Justice – 18 USC § 1503;
ix. Conspiracy To Defraud United States (Obstruct Justice) -- 18 USC § 371; and
x. Making false statements -- 18 USC § 1001. [Aff #4, ¶13.]

4. Without hearing any facts or evidence other than that presented by Windsor, this Court immediately branded Windsor's accusations as "scurrilous and irresponsible." [Duffey Docket #32.] It is impossible to get a fair hearing in this Court with such an improper mindset. [Aff #4, ¶14.]

5. Windsor questions whether there are any judges in the United States District Court for the Northern District of Georgia who do not routinely ignore the facts and the law in making their rulings. Judge Evans routinely ignored the facts and the law in the underlying case, and now this Court does the same. [Aff #4, ¶15.]

6. Windsor submits that judges do everything possible to protect fellow judges. As a 30-year veteran of the Northern District of Georgia and as a former Presiding Judge, Windsor submits that Judge Evans is a senior judge who is most likely to be protected by her fellow judges. [Aff #4, ¶16.]

7. Windsor asks that this Civil Action be moved to another District where the judges will not be friends and associates of Judge Evans. [Aff #4, ¶17.]

8. This Court has ignored the facts and the law in rendering the Opinion and Order [Duffey Docket #32] and Judgment [Duffey Docket #33]. This has been detailed in Windsor's Motion for Reconsideration filed July 10, 2009. The Motion for Reconsideration and the declaration and exhibits thereto are incorporated herein as if attached hereto. [Aff #4, ¶18.]

9. Windsor submits that this Court's use of the term "scurrilous" is legally vulgar and most irresponsible. The use of this word in the Opinion and Order demonstrates the clear extrajudicial bias of this Court against anyone who has the audacity to

pursue legal action against a federal judge. [Aff #4, ¶19.]

10. The Opinion and Order contain a number of false statements of fact and irresponsible claims of law. [Aff #4, ¶20.]

11. This Court did note that "Courts will consider compelling judicial testimony in the presence of extreme and extraordinary circumstances such as a strong showing of bad faith or improper behavior. [Duffey Docket #32 -- Opinion and Order, P 6, last two sentences.] [Aff #4, ¶21.]

12. This Court then falsely and irresponsibly claims that Windsor does not show "extreme and extraordinary circumstances." [Aff #4, ¶22.]

13. Windsor is quite sure that the citizens of the United States, and perhaps the Court of Appeals and the Supreme Court, will be upset to learn that the following represents "ordinary" circumstances that our courts should not be concerned with: A judge that committed perjury and obstruction of justice as many as 200 times in claiming facts in orders of the court that were absolutely false as proven by the evidence before the court. Plaintiffs who committed perjury over 400 times. Attorneys for the Plaintiffs who filed false sworn pleadings routinely, committed hundreds of counts of perjury, subornation of perjury, and obstruction of justice, and violated numerous laws, Rules, and the Code of Professional Conduct. [Aff #4, ¶23.]

14. Windsor submits that the purpose of the judicial system is justice. There was no justice in the underlying case. The laws of Georgia and the United States and the Federal Rules of Civil Procedure provide legal remedies to parties so abused. By issuing this Opinion and Order, this Court is violating Windsor's legal and Constitutional rights. This Court is denying Windsor the ability to obtain the information that he needs to be able to have the judgment and orders in Civil Action No. 1:06-CV-0714-ODE voided due to perjury and fraud upon the court. This Court is denying Windsor the ability to obtain the information that he needs to ensure that Judge Evans is disqualified. Windsor submits that this Court will join the Conspiracy to Commit Fraud against the Defendants through its failure to do the right thing in this matter. [Aff #4, ¶24.]

15. This is first and foremost a question of the most basic legal rights. This Court has not ruled on the basis of the motion filed by Windsor, the case law cited by Windsor, fundamental legal rights and obligations, and what the law should be. This Court has the Inherent Powers to do the right thing. But this Court has ignored the motions filed by Windsor. This Court has not addressed any of the issues raised by Windsor. [Aff #4, ¶25.]

16. Respect for the law is supposed to mean that you tell the truth, the whole truth and nothing but the truth. Judge Orinda D. Evans ("Judge Evans"), the Plaintiffs, and the Plaintiffs' Attorney have not been truthful in this case. They have all

been dishonest. Windsor has detailed the perjury of the Plaintiffs, the subornation of perjury by Plaintiffs' Attorneys, the perjury of Plaintiffs' Attorneys, false sworn pleadings, and other violations by the Plaintiffs' attorneys, as well as the lack of honesty, pervasive bias, prejudice, obstruction of justice, and perjury of Judge Evans. The Third Amended Declaration of William M. Windsor ("Amended Dec #3"), the Fifth Declaration of William M. Windsor ("Dec #5"), and the Twenty-Fifth Declaration of William M. Windsor ("Dec #25") provide complete details of all of the wrongdoing in the underlying case. All declarations of William M. Windsor are incorporated herein as if attached hereto. [Aff #4, ¶26.]

17. Civil Action No. 1:06-CV-0714-ODE is a matter in which the Plaintiffs and the Plaintiffs' Attorneys perverted the legal process with a massive number of acts that violate various laws, the Rules of Civil Procedure, and the Code of Professional Conduct. [Aff #4, ¶27.]

18. Civil Action No. 1:06-CV-0714-ODE is a matter in which Judge Evans made hundreds of "mistakes." Hundreds. Windsor submits that Judge Evans was either incompetent or committing criminal acts, or both. Windsor believes a court should find Judge Evans guilty of perjury, obstruction of justice, and much more. [Aff #4, ¶28.]

19. The Plaintiffs made over 400 statements under oath that are false or that Windsor believes to be false. Judge Evans was informed of this but ignored it. [Dec #3, Amended Dec #3 --

Evans Docket" #362 and 377]. Dec #3 and Amended Dec #3 are incorporated herein as if attached hereto. Windsor has filed charges of perjury and motions for sanctions against Christopher Glynn, Timothy P. Ruddy, and Robert J. Schul. [Evans Docket" #392, 396, and 400]. Evans Docket" #392, 396, and 400 are incorporated herein as if attached hereto. The Plaintiffs are guilty of significant perjury, and Windsor has documented the lies and the proof in sworn declarations. [Aff #4, ¶29.]

20. Plaintiffs' Attorneys have filed false sworn pleadings, false pleadings, improper pleadings, allegations and other factual contentions that lack evidentiary support, have obstructed justice, and have suborned perjury. Evans Docket #363 and 364 are incorporated herein as if attached hereto. [Evans Docket #363 and 364]. Windsor has filed a motion to disqualify Plaintiffs' Attorneys in this cause of action. [1:09-CV-1543-WSD-WEJ Docket ("Duffey Docket" #9.] Evans Docket #363 and 364 are incorporated herein as if attached hereto. Duffey Docket #9 is incorporated herein as if attached hereto. [Aff #4, ¶30.]

21. Judge Evans turned a blind eye and a deaf ear to the perjury and wrongful actions of Plaintiffs and Plaintiffs' Attorneys. Judge Evans ignored Windsor's claims of Rule 11 violations, perjury, and subornation of perjury, and Judge Evans has avoided giving proper consideration to the merits of Windsor's sworn statements under penalty of perjury in Civil Action No.1:06-CV-0714-ODE. This is a clear violation of the ministerial duties of Judge Evans pursuant to Canon 3B(3) of the Judicial

Code of Conduct that states: "A judge should initiate appropriate action when the judge becomes aware of reliable evidence indicating the likelihood of unprofessional conduct by a judge or lawyer." [[Aff #4, ¶31.]

22. Judge Evans made as many as 39 statements in the Preliminary Injunction Order and 210 statements in the Summary Judgment Order that were false or Windsor believes them to be false. Proof of most of the false statements in the orders has been documented with two or more citations to Plaintiffs' witnesses proving the statements are false. These were material false statements made under the Judge's oath of office in a federal proceeding. Judge Evans knew statements that she made were false because she claimed statements were evidence before the Court, and that was not true. Furthermore, Judge Evans was on notice that the Summary Judgment Order statements were false because Windsor informed her at a hearing in chambers on February 2, 2007. [Evans Docket #174.] Evans Docket #174 is incorporated herein as if attached hereto. [Aff #4, ¶32.]

23. Windsor has filed three motions to recuse Judge Evans, and Windsor submits that Judge Evans has been acting without jurisdiction in Civil Action No.1:06-CV-0714-ODE, and this most certainly subjects judge Evans to a deposition. [Evans Docket" #361 and 406]. Evans Docket #361 and 406 are incorporated herein as if attached hereto. Windsor filed a Motion to Disqualify Judge Evans in Civil Action No.1:09-CV-1543-WSD-WEJ [Duffey Docket #17]. This Motion to Disqualify is

incorporated herein as if attached hereto. [Aff #4, ¶33.]

24. Windsor has accused Judge Evans of perjury and obstruction of justice. [Aff #4, ¶34.]

25. Windsor has accused Judge Evans of fraud upon the court. [Aff #4, ¶35.]

26. Windsor has accused Judge Evans of pervasive bias for the Plaintiffs and pervasive prejudice against Windsor and the Defendants in Civil Action No.1:06-CV-0714-ODE. [Aff #4, ¶36.]

27. Windsor submits that Judge Evans has violated Windsor's Constitutional and Civil Rights. [Aff #4, ¶37.]

28. Windsor submits that Judge Evans should be found guilty of gross judicial misconduct. Judge Evans or someone on her staff may have been improperly influenced. Windsor has filed a complaint asking the FBI to investigate this matter. [Dec #35 ¶29.] Windsor asks this Court to refer the matter to the United States Attorney or a Grand Jury for investigation. Windsor asks this Court to hold a hearing where testimony can be taken from the Plaintiffs, Plaintiffs' Attorneys, and Judge Evans. This will enable this Court to substantiate charges of perjury and take action on the perjury during the hearing. [Aff #4, ¶38.]

29. The mission of judges is to see that justice is done. In this case, justice was not done, and Judge Evans was responsible for that. The

federal judiciary must not allow judges to withhold documents, turn a blind eye to massive perjury, ignore the evidence before the Court, invent evidence, and show a complete lack of impartiality. There can be no better use of the time of federal judicial personnel than to expose the wrongdoing in this case. [Aff #4, ¶39.]

30. The Deposition of Judge Evans is vital to the legal and Constitutional rights of Windsor. [Aff #4, ¶40.]

31. Judges must be subject to deposition when the testimony of the judge is necessary to prevent injustice to the party requesting it. Judges must be subject to deposition when they have violated the law. Judges must be subject to deposition when they and only they have the information needed to protect the rights of a citizen of the United States. [Aff #4, ¶41.]

32. Judge Evans has violated the Defendants' civil and Constitutional rights under color of law. [Aff #4, ¶42.]

33. Windsor submits that it is a violation of his Constitutional and civil rights to be required to prove extrajudicial bias in efforts to get Judge Evans disqualified without being afforded the opportunity to question Judge Evans in a deposition. Only Judge Evans knows the source of her extrajudicial bias, and Windsor must be given the opportunity to depose Judge Evans to obtain the discovery needed. Absent the ability to pursue discovery regarding the nature of the extrajudicial bias, Windsor may be

unable to meet the requirements for disqualification. There can be nothing just about blocking Windsor's right to prove his case for recusal. [Aff #4, ¶43.]

34. Windsor submits that this Court has violated Canon 1 of the Code of Judicial Conduct -- Judges Shall Uphold the Integrity and Independence of the Judiciary. Judges shall not show favoritism. The rulings of this Court show definite favoritism for a fellow judge. [Aff #4, ¶44.]

35. Windsor submits that this Court has violated Canon 2 of the Code of Judicial Conduct -- Judges Shall Avoid Impropriety and the Appearance of Impropriety. Judges shall respect and comply with the law. Judges shall promote public confidence in the integrity of the judiciary. Judges shall promote public confidence in the impartiality of the judiciary. The rulings of this Court show definite favoritism for a fellow judge. The rulings of this Court do not promote public confidence in the integrity of the judiciary. The rulings of this Court send a message that it is okay for parties, attorneys, and judges to violate the Rules, Codes, and laws repeatedly in their efforts to pervert the legal process. This Court's ruling approves lying, committing perjury, and suborning perjury in the United States District Court for the Northern District of Georgia. [Aff #4, ¶45.]

36. Windsor submits that this Court has violated Canon 3 of the Code of Judicial Conduct -- Judges Shall Perform the Duties of Their Office Impartially and Diligently. Judges should be faithful to the law. Judges shall perform judicial

duties without bias or prejudice. Judges shall accord to every person the right to be heard according to law. The rulings of this Court show definite favoritism for a fellow judge. This Court has ignored the law and has denied Windsor the right to be heard. This Court did not respond to a single thing that Windsor presented in his motions. [Aff #4, ¶46.]

37. Windsor submits that this Court has violated Canon 3D.(1) of the Code of Judicial Conduct -- Judges who receive information indicating a substantial likelihood that another judge has committed a violation of this Code should take appropriate action. Judge Evans has committed hundreds of violations of the Code of Judicial Conduct. Windsor's assertions have not been controverted by any affidavits whatsoever. The only facts before this Court are that Judge Evans committed serious wrongdoing. Rather than pretend nothing improper happened, this Court has a legal obligation to take action against Judge Evans. [Aff #4, ¶47.]

38. Windsor submits that this Court has violated Canon 3D.(2) of the Code of Judicial Conduct -- Judges who receive information indicating a substantial likelihood that a lawyer has committed a violation of the Standards of Conduct of the State Bar of Georgia should take appropriate action. Judges having knowledge that a lawyer has committed a violation of the Standards of Conduct of the State Bar of Georgia that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the appropriate authority. Rather than ignore what

has happened, this Court has a legal obligation to take action against Plaintiffs' Attorneys. [Aff #4, ¶48.]

39. Case law supporting changes of venue in general include ***Pamplin v. Mason***, 364 F.2d 1 (5th Cir. 1966), ***Murphy v. Florida***, 421 U.S. 794, 797 (1975) (quoting ***Marshall v. United States***, 360 U.S. 310, 313 (1959)); ***United States v. Williams***, 523 F.2d 1203, 1208 (5th Cir. 1975); ***Johnson v. Beto***, 337 F. Supp. 1371, 1376 (S.D. Tex. 1972); ***United States v. Marcello***, 280 F. Supp. 510, 513-14 (E.D. La. 1968); ***United States v. Tokars***, 839 F. Supp. 1578, 1581 (N.D. Ga. 1993). [Aff #4, ¶49.]

40. The 14th Amendment guarantees the fundamental rights of citizens to due process and such rights require the scrutiny of the Court. If this Court decides that it has the right to deny due process to Windsor, then the Court is failing to ensure justice in this case. [Aff #4, ¶50.]

41. The unlawful acts against the Defendants have greatly prejudiced Windsor. [Aff #4, ¶51.]

42. The United States is a government of the people, by the people, and for the people. The judicial system's function is to serve the public by providing a means to serve justice and to resolve disputes. This can only be done in an environment where honesty, integrity, and high moral standards are strictly enforced. This cannot be done in the United States District Court for the Northern District of Georgia. [Aff #4, ¶52.]

WHEREFORE, Windsor requests that the Court do as follows:

1. order a change of venue to a different Federal District;
2. vacate the Opinion and Order and Judgment;
3. grant such sanctions and other relief as the Court deems appropriate.

Respectfully submitted, this 28th day of July, 2009.

/s_____
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Pro Se

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF COMPLIANCE

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared in Times New Roman 14-point font, one of the font

and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

/s_____
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
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Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
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CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing PLAINTIFF WILLIAM M. WINDSOR'S MOTION FOR CHANGE OF VENUE AND

MEMORANDUM OF LAW IN SUPPORT THEREOF
by hand delivery and addressed as follows:

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This 28th day of July, 2009.

/s_____
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
_____	)

MOTION TO APPROVE SERVICE OF PROCESS ON CANADIAN PARTIES

COMES NOW Plaintiff William M. Windsor in the above-styled action, who, pursuant to Rule 4 of

the Federal Rules of Civil procedure, hereby requests this Court to APPROVE SPECIAL SERVICE OF PROCESS ON CANADIAN PARTIES, Maid of the Mist Steamboat Company, Ltd., Timothy P. Ruddy, and Sandra Carlson.

1. These defendants are proper parties to this action. These defendants have been represented by Mr. Carl Hugo Anderson of Hawkins & Parnell in Civil Action No. 1:06-CV-0714-ODE. Filings with the court in that Civil Action provide that depositions for these parties were to be arranged by notice to Mr. Carl Hugo Anderson. Each of these defendants has filed affidavits in Civil Action No. 1:06-CV-0714-ODE. Mr. Anderson filed Civil Action No. 1:06-CV-0714-ODE for Maid of the Mist Steamboat Company, Ltd. Mr. Timothy P. Ruddy traveled to Atlanta to give the 30(b)(6) deposition for Maid of the Mist Steamboat Company, Ltd.

2. Plaintiff William M. Windsor asks that service on these defendants shall be made by delivering a copy of the Verified Action to Mr. Carl Hugo Anderson of Hawkins & Parnell at 4000 SunTrust Plaza, 303 Peachtree Street, N.E., Atlanta, Georgia 30308.

3. Service of Process will be obtained in a lawful manner, and a Return of Service will be filed with the Court.

WHEREFORE, Plaintiff requests that this Court enter an order allowing service of process to be obtained upon defendants, Maid of the Mist Steamboat Company, Ltd., Timothy P. Ruddy, and

Sandra Carlson by service upon Mr. Carl Hugo Anderson of Hawkins & Parnell.

Respectfully submitted, this 27th day of July 2009.

/s_____
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
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CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF COMPLIANCE

As required by Local Rule 7.1D, N.D. Ga., I hereby certify that this pleading has been prepared in Times New Roman 14-point font, one of the font

and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

/s_____

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
	)
Plaintiff,	)
	)
v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
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MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF SERVICE

I hereby certify that on the 27h day of July 2009, I served MOTION TO APPROVE SPECIAL

SERVICE OF PROCESS ON CANADIAN PARTIES
by hand delivery addressed as follows:

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William M. Windsor
Pro Se

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
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Plaintiff,	)
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v.	CIVIL ACTION NO: 1:09-CV-02027-WSD
UNITED STATES OF AMERICA,	)
JUDGE ORINDA D. EVANS,	)
HAWKINS & PARNELL, LLP,	)
CARL HUGO ANDERSON,	)
PHILLIPS LYTLE, LLP,	)
CHRISTOPHER M. GLYNN,	)
TIMOTHY P. RUDDY,	)
ROBERT J. SCHUL,	)
JUDITH L. BERRY,	)
MAID OF THE MIST	)
CORPORATION,	)
MAID OF THE MIST	)
STEAMBOAT COMPANY, LTD.,	)
SANDRA CARLSON,	)
MARC W. BROWN,	)
ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

MOTION FOR WAIVER OF REPRESENTATION BY COUNSEL AND MOTION TO ALLOW ALCATRAZ MEDIA, LLC AND ALCATRAZ MEDIA, INC. TO ASSIGN ALL RIGHTS IN CIVIL ACTION

NO. 1:06-CV-0714-ODE TO PLAINTIFF WILLIAM M. WINDSOR

Plaintiff William M. Windsor hereby files this MOTION FOR WAIVER OF REPRESENTATION BY COUNSEL AND MOTION TO ALLOW ALCATRAZ MEDIA, LLC AND ALCATRAZ MEDIA, INC. TO ASSIGN ALL RIGHTS IN CIVIL ACTION NO. 1:06-CV-0714-ODE TO PLAINTIFF WILLIAM M. WINDSOR at the request of Alcatraz Media, LLC and Alcatraz Media, Inc.

1. Alcatraz Media, Inc., and Alcatraz Media, LLC (jointly "Alcatraz") were the defendants with William M. Windsor ("Windsor") in Civil Action No. 1:06-CV-0714-ODE.

2. Alcatraz was damaged just as Windsor was, and Alcatraz has additional causes of action and additional damages that Windsor does not have personally.

3. Alcatraz would like to join Windsor in the instant Civil Action, but Alcatraz has been unable to find an attorney in Atlanta who would handle a lawsuit against Judge Evans and one of Atlanta's largest law firms.

4. Alcatraz and Windsor have been led to believe that corporations must be represented by counsel, but they do not know if that is a legal requirement or a requirement that might be waived.

5. Alcatraz is owned 75% by Ryan Michael Windsor ("Ryan"), the only son of the Plaintiff in the instant Civil Action.

6. Ryan and the 25% owner, Rod Smith ("Rod") would like to see Alcatraz represent itself in this matter or be allowed to assign all of their rights in Civil Action No. 1:06-CV-0714-ODE to Windsor so causes of action and damages exclusive to Alcatraz may be claimed by Windsor.

7. If Alcatraz Media, LLC and Alcatraz Media, Inc. choose to represent themselves in this Civil Action, Alcatraz Media, LLC and Alcatraz Media, Inc. request that a resolution passed by all members of Alcatraz Media, LLC and all directors of Alcatraz Media, Inc. may be filed with this Court along with an Amended Verified Action adding Alcatraz Media, LLC and Alcatraz Media, Inc. as Plaintiffs in the instant Civil Action.

8. The affidavit of Ryan Michael Windsor is attached hereto as Exhibit A and made a part hereof.

9. The affidavit of Rod Smith is attached hereto as Exhibit B and made a part hereof.

10. The affidavit of William M. Windsor is attached hereto as Exhibit C and made a part hereof.

11. A proposed order is attached hereto as Exhibit D.

WHEREFORE, Plaintiff requests that this Court enter an order allowing Alcatraz Media, LLC and Alcatraz Media, Inc. to waive representation by counsel in this Civil Action and represent themselves, and/or authorize Alcatraz Media, LLC and Alcatraz Media, Inc. to assign all rights in Civil Action No. 1:06-CV-0714-ODE so he may pursue this action individually but pursue causes of action for and seek damages for Alcatraz Media, LLC and Alcatraz Media, Inc. as if they were his own.

Respectfully submitted, this 27th day of July 2009.

/s_____
William M. Windsor
Pro Se

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Marietta, GA 30068
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
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Plaintiff,	)
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MAID OF THE MIST	)
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AND DOES 1 TO 100,	)
Defendants.	)
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CERTIFICATE OF COMPLIANCE

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and point selections approved by this Court in Local Rule 5.1B, N.D. Ga.

/s_____
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WILLIAM M. Windsor,	)
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Plaintiff,	)
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ARTHUR RUSS.	)
AND DOES 1 TO 100,	)
Defendants.	)
	)

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of July 2009, I served this MOTION FOR WAIVER OF REPRESENTATION BY COUNSEL AND MOTION

TO ALLOW ALCATRAZ MEDIA, LLC AND ALCATRAZ MEDIA, INC. TO ASSIGN ALL RIGHTS IN CIVIL ACTION NO. 1:06-CV-0714-ODE TO PLAINTIFF WILLIAM M. WINDSOR by hand delivery as follows:

Mr. Jack Sidley
Managing Partner
HAWKINS & PARNELL, LLP
4000 Suntrust Plaza
303 Peachtree Street
Atlanta, Georgia 30308
Telephone: 404-614-7400
Facsimile: 404-614-7500
Email: canderson@hplegal.com

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303 Peachtree Street
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United States of America
U.S. Attorney's Office
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse
75 Spring Street, SW
Atlanta, Georgia 30303

Judge Orinda D. Evans
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse
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Atlanta, Georgia 30303

Christopher M. Glynn
Maid of the Mist
151 Buffalo Avenue, Suite 204
Niagara Falls, New York 14303

Timothy P. Ruddy

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Huntington Woods, Michigan 48070

Maid of the Mist Corporation
Maid of the Mist
151 Buffalo Avenue, Suite 204
Niagara Falls, New York 14303

Maid of the Mist Steamboat Company, Ltd.
c/o Carl Hugo Anderson, Jr., Esq.

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4000 Suntrust Plaza
303 Peachtree Street
Atlanta, Georgia 30308
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Email: canderson@hplegal.com

/s_____
William M. Windsor
Pro Se and Agent for Alcatraz Media, LLC and Alcatraz Media, Inc.

3924 Lower Roswell Road
Marietta, GA 30068
Telephone: 770-578-1094
Facsimile: 770-578-1057
Email: bill@billwindsor.com

Supreme Court, U.S.
FILED

10-632 OCT 15 2010

OFFICE OF THE CLERK

No.

In The
Supreme Court of the United States

WILLIAM M. WINDSOR,

Petitioner

v.

UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY, ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS. AND DOES 1 TO 100,

Respondents

On Petition for Writ of Mandamus
To The United States Court of Appeals for The Eleventh Circuit

PETITION FOR WRIT OF MANDAMUS APPENDIX -- VOLUME 3

William M. Windsor
Pro Se
3924 Lower Roswell Rd
Marietta, GA 30068
770-578-1094

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[1] The affidavits and exhibits to the affidavits provided herein have not been included in this Appendix due to the volume. If this Court wants to see the exhibits, the Petitioner can easily provide them.

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IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-10349-A

WILLIAM M. WINDSOR,

Versus

UNITED STATES OF AMERICA,
JUDGE ORINDA D. EVANS, et al.,

Appeal from the United States District Court
for the Northern District of Georgia

BEFORE: TJOFLAT, EDMONDSON, and BIRCH, Circuit Judges.

BY THE COURT:

> This appeal is DISMISSED, *sua sponte*, for lack of jurisdiction. The district court's September 25, 2009, and October 20, 2009, orders denying William M. Windsor's motions for recusal, are neither final nor immediately appealable, as they did not dispose of his underlying action. See 28 U.S.C. §1291; CSX Transp. Inc. v. City of

Garden City, 235 F.3d 1325, 1327 (11th Cir. 2000); Haney v. City of Cumming, 69 F.3d. 1098, 1101 (11th Cir. 1995).

No motion for reconsideration may be filed unless it complies with the timing and other requirements of 11th Cir.R 27-2 and all other applicable rules.

FILED
U.S.COURT OF APPEALS
ELEVENTH CIRCUIT

MAR 17 2010

JOHN LEY
CLERK

William M. Windsor

P.O. Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106
williamwindsor@bellsouth.net

August 31, 2010

Judge William S. Duffey
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse -- 75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-02027-WSD and 1:09-CV-01543-WD

Dear Judge Duffey:

Two surgical procedures were performed on my left eye yesterday. Dr. Paul Kaufman says they went well.

While repairing the detached vitreous and replacing the fluid in the vitreous, Dr. Kaufman found a "hole" in the back of my eye. It was repaired with a laser.

The vision in my left eye is now bizzare. The eye has a haze overall, and the lower 1/3 of my eye is a dark red bubble that jiggles with the slightest movement. It completely blocks any chance of reading. I "see" this even when my eye is closed. I am told this will go away and is not uncommon following this type of surgery.

I am wearing a shield taped over my eye. I am sleeping upright in a chair.

I cannot do much for the next two weeks. I go back to Dr. Kaufman on the 15th. For the next month or so, I will be receiving 15 does per day of Vigamox, Durezol, Nevanec, and Omnipred. I take Lortab for pain four times a day until no longer needed.

I haven't actually read the recent order, but I believe I am to report to you once a month and provide some documentation. Enclosed are various and sundry doctor statements, Blue Cross statements, prescriptions, pharmacy receipts, etc.

As to the legal status, I have not been to the post office to get mail in the last six days, so this may not be totally accurate. Motions seeking extensions have been filed regularly in all matters except New York. No orders have been issued by the Eleventh Circuit. No orders have been issued in 1:09-CV-01543-WSD. An extension was granted in the Supreme Court by Justice Thomas. No orders have been issued in the two appeals with the DC Circuit Court of Appeals. No orders have been issued by the New York Court of Appeals.

Sincerely,

/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Marc Brown, Christopher Huber

William M. Windsor
P.O. Box 681236 * Marietta, GA 30068

June 17, 2010

Judge William S. Duffey – United States District Court, Richard B. Russell Federal Building and U.S. Courthouse -- 75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-02027-WSD

Dear Judge Duffey:

I will be having eye surgery on July 6 and July 13. I anticipate being unable to work effectively from July 6 through July 15.

My wife and I will be attending a family reunion at my elderly mother-in-law's home from July 28 to August 1.

I ask that these dates be kept in mind when setting hearings or calculating time for responses or replies. I am writing a letter about this because I have observed that this is what attorneys do to request "leaves."

Sincerely,

/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Marc Brown, Christopher Huber, Judy Berry

William M. Windsor
P.O. Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106

July 21, 2010

Judge William S. Duffey -- United States District Court, Richard B. Russell Federal Building and U.S. Courthouse -- 75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-02027-WSD and 1:09-CV-01543-WD

Dear Judge Duffey:

It will take me longer than originally thought to recover from eye surgery. I have had eye problems throughout 2010. When I went to the eye doctor for testing in mid-June, it was determined that my extreme difficulty reading was caused by a combination of increased astigmatism and cataracts that had to be removed immediately. I had been delaying the surgery because of the demands of the litigation. I was "reading" double with my right eye and was seeing 1.5-times whatever I tried to read with my left eye. I was scheduled for surgery as quickly as the surgeon's schedule allowed. The first of two surgeries was July 6, 2010. After the second surgery on July 13,2010. I was soon able to use a computer with a large monitor with large typeface, though I have difficulty reading the keyboard. I have to be able to read the keyboard or any written material as I type with two fingers and have to look at the keyboard to see where the keys are.

I have regained limited ability to read using a magnifying glass. It is extremely tedious, and it causes headaches after short periods of time. My eyes must adjust before special reading glasses can be prescribed. I no longer have the ability to use the varifocal glasses that I previously used. Dr. Blasberg advised me on July 14, 2010 that I cannot obtain a prescription for reading glasses until August 4, 2010 because my eyes have to heal and "normalize" first. The glasses should be available not later than August 11.

I apologize for underestimating the recovery time. Dr. Blasberg never told me that I would completely lose the ability to read, and I didn't know about the three week healing time.

My wife and I will be attending a family reunion at my 89-year-old mother-in-law's home from July 28 to August 1. She may not be with us much longer. I ask that these dates be kept in mind when setting hearings or calculating time for responses or replies. I am writing a letter about this because I have observed that this is what attorneys do to request "leaves."

Sincerely,

/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Marc Brown, Christopher Huber, Judy Berry, Sandra Carlson

William M. Windsor

P.O. Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106

July 27, 2010

Judge William S. Duffey
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse
75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-02027 WSD and 1:09-CV-01543-WD

Dear Judge Duffey:

I am sorry to report that I am having new problems with my left eye. I may have to have another surgery. Dr. Robert Blasberg is on vacation, and he will be back and see me on August 4. I spoke with his assistant and Dr. Gross in his absence.

I still can't read, but the new problem is that I have spots all across the field of vision with my left eye. Tiny gray spots very close together and some bigger shadows. My amateur diagnosis (which is also wishful thinking) is that the lens is bad. If so, it will mean another surgery, and another delay in reading. (I have floaters, and these aren't floaters because

they aren't moving. I continue to see the annoying floaters that I have always had in both eyes.)

The enclosed letter was faxed to Mr. Anderson, but he chose to ignore it.

Sincerely,

/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Marc Brown, Christopher Huber, Judy Berry, Sandra Carlson

William M. Windsor
P.O. Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106

September 1, 2010

Judge William S. Duffey -- United States District Court, Richard B. Russell Federal Building and U.S. Courthouse, 75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-02027-WSD and 1:09-CV-01543-WD

Dear Judge Duffey:

Mr. Anderson feels that he should get his hands on my personal, confidential medical records. He has no such right, and I absolutely refuse. Mr. Anderson and his clients are as dishonest as they come. I believe someone associated with them has contacted the IRS pretending to be me.

Please return the various and sundry doctor statements, Blue Cross statements, prescriptions, pharmacy receipts, etc. that I provided to you. If necessary, I will file submit a request for specific approval to file this information under seal.

Sincerely,
/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Marc Brown, Christopher Huber

Email

From: William M. Windsor
Sent: Fri 9/10/2010 1:53 PM

To: Jessica_Birnbaum@gand.uscourts.gov
Cc: Chris.Huber@usdoj.gov;
CAnderson@hptylaw.com
Subject: RE:

Receipt acknowledged.

I asked the surgical coordinator to ask Dr. Kaufman for a confidential letter to Judge Duffey only.

-----Original Message-----
From: Jessica_Birnbaum@gand.uscourts.gov
[mailto:Jessica_Birnbaum@gand.uscourts.gov]
Sent: Thursday, September 09, 2010 5:28 PM
To: williamwindsor@bellsouth.net
Cc: Anderson, Carl H. Jr.; Huber, Chris (USAGAN)
Subject:

Mr. Windsor,

The Court requires an official report in the form of a statement from Dr.
Kaufman regarding your medical condition. Dr. Kaufman's statement should detail your medical condition, to include diagnosis, surgery performed, any complications, prognosis, whether further surgery is required, etc. Dr.
Kaufman's statement can be emailed to me or mailed to our chambers address.

Please acknowledge receipt of this message.

Thank you,

Jessica Birnbaum
Courtroom Deputy Clerk
Honorable William S. Duffey, Jr.
1721 United States Courthouse
75 Spring Street, S.W.
Atlanta, Georgia 30303-3309
(404)215-1484

Email

From: William M. Windsor
Sent: Wed 9/15/2010 10:52 PM

To: Jessica_Birnbaum@gand.uscourts.gov
Cc: Chris.Huber@usdoj.gov;
CAnderson@hptylaw.com
Subject: Windsor Medical Letter

Jessica:

I requested the letter from Dr. Kaufman's surgical coordinator by email on September 10 when I received your email. I followed up by phone on Monday and spoke with one of the coordinators. When I had my appointment with Dr. Kaufman today, I asked if he had sent the letter, and he knew nothing about it. :-(He immediately took his transcriber and dictated a letter. I assume I will have it tomorrow.

I am sending a chronology because Dr. Kaufman's dictation as a lot shorter than I would have preferred. If Judge Duffey wants any more information from Dr. Kaufman, I recommend that he write him directly after he reads his letter. Please provide my update to Judge Duffey. I am sending it under separate cover as I do not want Mr. Anderson and Mr. Huber to have any more medical information.

I see Dr. Kaufman again on October 14. We discussed my progress today, and we discussed that my left eye should be adequate for reading by

October 1. I still have one problem with the eye, and I continue to live with a constant headache, so I have to go back to see Dr. Blasberg to see if there is an alternative to the magnifying glasses that I have to wear to read. I feel that it is the magnification that is causing the headaches. I would like to suggest that Judge Duffey lift the stay on October 15 so I get past that appointment. I will see Dr. Blasberg next week.

William M. Windsor

William M. Windsor

P.O. Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106
williamwindsor@bellsouth.net

September 23, 2010

Judge William S. Duffey
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse
75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-02027-WSD and 1:09-CV-01543-WD

Dear Judge Duffey:

Enclosed is the letter just received from Dr. Kaufman after I raised you-know-what with their office.

Your order of September 23, 2010 is false and grossly unfair. You falsely claim that I did not submit a September 1 Report, but I did. I submitted it on August 31. A copy is attached. It was copied to all of the attorneys. I believe Mr. Huber is fairly honest, so he should be able to confirm receipt.

The letter detailed the latest medical status and provided the lawsuit update that you requested. I explained that motions seeking extensions had been filed regularly in all matters except New York. No

orders had been issued by the Eleventh Circuit. No orders had been issued in 1:09-CV-01543-WSD. An extension was granted in the Supreme Court by Justice Thomas. No orders had been issued in the two appeals with the DC Circuit Court of Appeals. No orders had been issued by the New York Court of Appeals.

Since the letter, the New York Court of Appeals transferred that matter to a different New York Court of Appeals. I have not yet heard from the new court of appeals.

The Eleventh Circuit issued two orders requiring that I file briefs by the 28th of September. I will file an Emergency Motion for Relief, but I will have to work as much as I can to revise my notices of appeal into briefs. Fortunately, I have previous legal research that will be used.

The Supreme Court issued a second extension to the maximum allowed by the rules. I had to file my Petition for Writ of Certiorari by the 23rd, and I did. I was unable to do any new research, so I used what I had from the lower courts.

I was unable to file an appellate brief with the DC Circuit Court of Appeals by the deadline. I filed a motion asking for an extension and asking that, in the alternative, my detailed Notice of Appeal be accepted as my Appellate Brief. I have heard nothing from the DC Circuit Court of Appeals.

I have provided DETAILED medical information to you. I believe you have no basis to question what

has been provided because it has details of dates of visits, diagnosis, etc. The request for "a letter from my mother" like this is grade school is extremely unfair. Unlike the other parties, attorneys, and judges in this matter, I have never lied about anything. Why in God's name would I lie about this medical saga that I am on and submit Blue Cross Blue Shield reports, doctor bills, anesthesiologist bills, and pharmacy bills. Do you think I am creating these on my computer? Why haven't you ever addressed the thousands of lies by Mr. Anderson, Judge Evans, and the defendants in this case? Those are all ignored, but I am expected to get a sick note. This shows complete, total, bias on your part, and I repeat my request that you recuse yourself.

I requested a letter from Dr. Kaufman on September 9, 2010 when I received an email from you requesting the letter. I have forwarded that email to Ms. Birnbaum under separate cover. It is confidential. I also forwarded my email following up on that request on September 13. It is not confidential, so I copied Mr. Huber and Mr. Anderson.

I also responded to Ms. Birnbaum on September 10 to confirm receipt of her email as requested, and I followed up on September 15, 2010 with an email to her that was copied to Mr. Huber and Mr. Anderson. I forwarded that again to all parties.

I explained in that email that I saw Dr. Kaufman on the 14th, and he said he knew nothing about the

letter, so he dictated one on the spot and said it would be sent to me ASAP.

I subsequently called his surgical assistant, Kat Barber, two or three times asking where the letter was. She never returned my calls (which I have experienced with her consistently throughout my medical ordeal). I called her again yesterday. She did not return the call. I called again this morning, and she did not return my call. When I received the order forwarded by Mr. Huber, I called again. When Kat Barber did not answer, I asked to speak to anyone on Dr. Kaufman's staff. I reached a male's voice mail (couldn't understand his name), and I left a voice mail. My call was not returned. I then called and asked to speak to the General Manager of Thomas Eye Group. Then Kat Barber finally got on the phone. I expressed my unhappiness over the prospect of going to jail for her failure to get the letter to me. When she refused to handle it immediately, I insisted that I be connected to the General Manager. She was in Ms. Barber's office, because Maria (General Manager) took the phone to spoke to me. I explained the situation to her, and she gave me a song and dance about how busy they are with patients. I insisted on speaking to Dr. Kaufman. I was begrudgingly promised a call in a few minutes. It was over an hour, but I just received a call and then a faxed copy of the letter. It is enclosed. I will be there tomorrow morning at 11:00 am, and I will get the original and mail it to you as further proof.

Please note that Dr. Kaufman has asked you to contact his office with other questions. Feel free to

call and ask them to confirm each and every appointment, procedure, bill, etc.

Please also note that Dr. Kaufman advises in his P.S. that I made the request on September 9, and his office apologizes for the "delay."

To protect the confidentiality of my medical records, I will file an appeal to the Eleventh Circuit on this September 23, 2010 Order. I will submit a Notice of Appeal with the appeal fee not later than tomorrow morning to establish the automatic stay under Georgia law.

I continue to have eye problems. I cancelled an appointment with Dr. Blasberg today when I received this order via Mr. Huber. I rescheduled for tomorrow at 11:00 am. I have another appointment with Dr. Kaufman on the 14th. I have an appointment with a new surgeon, Dr. Neufeld, on September 28. I am also obtaining a referral from a doctor friend to a different eye group as I have lost confidence in Thomas Eye Group and want a second opinion from a different medical practice.

I was forced to ATTEMPT to file a number of things today in 1:09-CV-01543 necessitated by the actions of Mr. Anderson and your failure to order a stay. I was able to prepare these filings using information that was on my computer that I adapted. I was unable to do any new research because of the continued difficulty reading. But as I have said all along, if I have something in Microsoft Word format on the giant computer screen with a giant font, I can

deal with it if I have to. It took me the best part of the last week to prepare them.

Please note that pro se parties do not receive electronic filings. Orders giving one day to do something are totally improper at any time, but especially with a pro se party who likely will not even receive the order until after the due date for one-day requested action.

Sincerely,

/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Christopher Huber

Enclosures:

Thomas EYE Group

9/20/2010

RE: Windsor, William
DOB: 10/2/1948

To Whom It May Concern:

Mr. Windsor is a 61-year-old gentleman who recently had vitrectomy surgery, August 30, 2010 in his left eye. The procedure involved vitrectomy with air-fluid exchange and laser treatment for visually significant opacification. He is doing well and is

recovering nicely. During the preoperative and early postoperative period, he was having some difficulty reading. This symptom is improving gradually over time. He is expected to recover by October 1, 2010. If you have any further questions, please feel free to contact my office.

Very Sincerely,

/s
Paul L. Kaufman, MD
PLK/baj/phy DD: 9/20/2010 DT: 9/21/2010

P.S. This letter was requested by Mr. Windsor on September 9, 200. We regret the delay in fulfilling his request.

William M. Windsor

P.O. Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106
williamwindsor@bellsouth.net

August 31, 2010

Judge William S. Duffey
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse -- 75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-02027-WSD and 1:09-CV-01543-WD

Dear Judge Duffey:

Two surgical procedures were performed on my left eye yesterday. Dr. Paul Kaufman says they went well.

While repairing the detached vitreous and replacing the fluid in the vitreous, Dr. Kaufman found a "hole" in the back of my eye. It was repaired with a laser.

The vision in my left eye is now bizzare. The eye has a haze overall, and the lower 1/3 of my eye is a dark red bubble that jiggles with the slightest movement. It completely blocks any chance of reading. I "see" this even when my eye is closed. I am told this will go away and is not uncommon following this type of surgery.

I am wearing a shield taped over my eye. I am sleeping upright in a chair.

I cannot do much for the next two weeks. I go back to Dr. Kaufman on the 15th. For the next month or so, I will be receiving 15 does per day of Vigamox, Durezol, Nevanec, and Omnipred. I take Lortab for pain four times a day until no longer needed.

I haven't actually read the recent order, but I believe I am to report to you once a month and provide some documentation. Enclosed are various and sundry doctor statements, Blue Cross statements, prescriptions, pharmacy receipts, etc.

As to the legal status, I have not been to the post office to get mail in the last six days, so this may not

be totally accurate. Motions seeking extensions have been filed regularly in all matters except New York. No orders have been issued by the Eleventh Circuit. No orders have been issued in 1:09-CV-01543-WSD. An extension was granted in the Supreme Court by Justice Thomas. No orders have been issued in the two appeals with the DC Circuit Court of Appeals. No orders have been issued by the New York Court of Appeals.

Sincerely,

/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Marc Brown, Christopher Huber

CONFIDENTIAL
September 10, 2010

Judge William S. Duffey -- United States District Court, Richard B. Russell Federal Building and U.S. Courthouse, 75 Spring Street, SW
Atlanta, Georgia 30303

Re: William M. Windsor

Dear Judge Duffey:

William M. Windsor has authorized me to provide details of his medical condition to you and you alone. Please do not provide this letter to anyone else for any reason.

Mr. Windsor has been a patient of Dr. Robert Blasberg for quite a few years. The records of our practice indicate that Mr. Windsor had been diagnosed with cataracts in both eyes when he first began seeing Dr. Blasberg. The records further indicate that Dr. Blasberg advised Mr. Windsor that he could delay cataract surgery until the cataracts caused significant problems.

Dr. Blasberg and Mr. Windsor discussed the cataracts during each annual visit. Mr. Windsor scheduled an appointment with Dr. Blasberg in the spring of 2010. I understand that Mr. Windsor reported that he was having extreme difficulty reading; the letters on a page had a significant shadow that was as much as double in one of his eyes. He had also developed difficulty with driving at night due to a halo effect caused by the cataracts. Everything that Mr. Windsor was seeing was very gray to him due to the cataracts.

Tests were conducted, and Dr. Blasberg advised Mr. Windsor that he should have the cataract surgery. Mr. Windsor has indicated to me that he had to delay the surgery because legal obligations interfered with his ability to take time off for medical work.

In June 2010, Mr. Windsor returned to Dr. Blasberg to schedule the surgery because he reported that he just couldn't read and was having severe headaches.

On June 30, Mr. Windsor was scheduled for cataract surgery on July 6 and 13. Medication began on July

3, and Mr. Windsor has been using a variety of medications since.

The first surgery was conducted by Dr. Blasberg on July 6. Mr. Windsor saw Dr. Blasberg again on July 7.

On July 8, Mr. Windsor reported that when he closed his eyes to go to sleep each night since the surgery, he saw flashes of light in his left eye. He described it as like seeing a strobe light from a distance. Mr. Windsor has informed me that a surgical coordinator checked with Dr. Blasberg and told him that it was "okay and not uncommon."

On July 13, the second cataract surgery was conducted by Dr. Blasberg. Mr. Windsor saw Dr. Blasberg again on July 13, and he informed him that he was experiencing a sensation with his left eye as if a curtain was being drawn across his eye. Dr. Blasberg advised Mr. Windsor to give the eyes time to heal.

On July 24, Mr. Windsor contacted Dr. Blasberg's surgical coordinator to advise that he believed something was wrong with the lens implanted in his left eye because his vision had polka dots all across the field of vision. When he closed his left eye, he continued to see these stationary dots. Dr. Blasberg was consulted, and he advised that an appointment could be delayed until August 4.

Mr. Windsor saw Dr. Blasberg on August 4, and he was advised to see a retina specialist if the condition did not improve.

Mr. Windsor had his first appointment with me on August 5. I conducted a thorough examination, and several tests were run. During a sonogram of his eye, we discovered a vitreous detachment. I advised Mr. Windsor that the strobe lights that he saw on July 7 and 8 were probably caused by the vitreous detaching from the retina. I advised Mr. Windsor that this condition will sometimes correct itself, or the patients will learn to live with it.

Mr. Windsor reported that the condition became steadily worse. On August 10, Mr. Windsor contacted our office to say that he was having more significant "flashes" in his left eye. He reported that when he turned his head to one side and back, he got a "curtain" moving across his field of vision. He reported that the curtain was now moving back and forth. He reported that his left eye continued to twitch, and he had pain in the eye.

Dr. Blasberg's surgical coordinator consulted with our retina team, and Mr. Windsor was scheduled for an appointment on August 11.

When I examined Mr. Windsor on the 11th, I noted some scarring on the retina. I advised Mr. Windsor to schedule surgery with me to correct the vitreous detachment and to have laser procedures if needed.

Mr. Windsor showed up for surgery on August 20, but his surgery was actually scheduled for August 30.

I conducted two surgical procedures on Mr. Windsor's left eye on August 30, and it was my opinion that they went well.

While repairing the detached vitreous and replacing the fluid in the vitreous, I found a "hole" in the back of Mr. Windsor's eye. I repaired it with a laser. I do not know what caused the hole; it could have been from trauma from years before.

I saw Mr. Windsor on August 31, and he reported that the vision in his left eye was hazy overall, and the lower 1/3 of his eye was a dark red jello-like blob that jiggled with the slightest movement. It completely blocked his ability to read. He experienced this even when his eye was closed. I advised Mr. Windsor that this should go away and was not uncommon following this type of surgery.

Mr. Windsor was given new medications, and he was given specific post-surgery instructions to follow. These involved sleeping upright in a chair, wearing a shield taped over his eye, and refraining from any bending, lifting, etc.

Since the surgery on August 30, Mr. Windsor has received three doses per day of Vigamox, Durezol, and Nevanec, and four doses per day of Omnipred. I prescribed Lortab for pain four times a day.

On September 2, Mr. Windsor contacted my surgical assistant because the dark spot in his left eye had turned into a much larger circle that he described as looking like a large, perfectly round 35mm camera lens.

On September 3, Mr. Windsor saw my associate, Dr. Jessica McCluskey. In addition to the "camera lens," Mr. Windsor reported that he saw flies and cockroaches, but these were actually spots that he was seeing in his left eye. Dr. McCluskey advised Mr. Windsor that this condition should go away.

I called Mr. Windsor on September 6, and he informed me that his left eye seemed to be better since he saw Dr. McCluskey.

Mr. Windsor has informed me today that the camera lens has disappeared. He is seeing what he describes as three-dimensional sensations in his left eye in which large black files appear to be circling around and darting back and forth. He also reports seeing 'cockroaches" scurrying across the floor. These visions are very realistic to him. Mr. Windsor says this is totally different from the floaters that he has for years prior to the surgeries. Mr. Windsor continues to have headaches. He was unable to read from the first cataract surgery on July 6 until September 6. He is now using reading glasses, but he reports that the magnification is making him feel dizzy and lightheaded. I have an appointment to see Mr. Windsor again next week.

Sincerely,
Dr. Paul Kaufman

William M. Windsor

P.O. Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106
williamwindsor@bellsouth.net

September 30, 2010

Judge William S. Duffey
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse
75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-02027-WSD and 1:09-CV-01543-WD

Dear Judge Duffey:

This is my second monthly report.

My vision has improved significantly over the last month. My left eye is only slightly hazy, and the dark red bubble that jiggled with the slightest movement is completely gone. The flies and cockroaches that darted in and out of my field of vision with my left eye have reduced, so I am hoping they will completely disappear.

I cannot read with the glasses that have been prescribed, so I have quit trying for now. I have had splitting headaches, but if I don't wear the glasses or try to read anything but a giant computer screen, it

isn't nearly as bad. Enclosed is a photo showing the 20-inch monitor that I am using along with two of the three magnifying glasses that I use.

Dr. Blasberg has given me a prescription for a straight reading glass rather than the progressive (varifocal) prescription that I had filled and cannot use. I am anxious to try this, but I am holding off until I get a second opinion from Dr. Suzanne Hewitt of North Fulton Eye Center. The doctors in this practice are fully booked for the next 10 days, but I will be called if there is a cancellation.

My left eye is now extremely red with spiderweb veins everywhere, especially on the inside of the eye where one of the incisions was made. The attached photo illustrates this somewhat. Dr. Blasberg has prescribed steroids, and I will begin those today. I have probably overdone it with the legal work I had to do in the last week to respond to Mr. Anderson's actions in 1:09-CV-01543-WSD and court-ordered deadlines from The Supreme Court and the Eleventh Circuit. I have been told to get away from the computer screen and rest my eye more. As I understand it, the concern with the red eye is infection.

Two orders were issued in mid-September by the Eleventh Circuit that forced me to prepare and filer two briefs. I was unable to do any research (due to inability to read), but in both cases, I had done extensive research prior to filing motions, responses, and notices of appeals, so I had a lot to work with. It wasn't nearly as good as it should have been, but at least I got something filed on time. Everything else

with the Eleventh Circuit is in limbo due to the failure of the Eleventh Circuit to respond on matters such as consolidating some appeals.

My New York appeal has been transferred to the New York Supreme Court Appellate Division. The appeal brief and a host of documents have to be filed within nine months from the date of the notice of appeal, so I have several months before I have to worry about this. I have long since done all the research, so most of this is a project that I can do on the computer screen.

I have not heard from the DC Circuit Court of Appeals on my inability to file a brief by the specified date.

In 1:09-CV-02027-WSD, you will decide when you want to lift the stay. I go back to Dr. Kaufman on the 14th, and I should see Dr. Hewitt any day. I am confident that I will be in as good a shape as I am probably ever going to be by October 15. I do ask that reasonable time periods be given on filings as it takes me much longer than it used to.

When the stay is lifted, I expect you to rule on discovery and the summary judgment nature of Maid's so-called "motion to dismiss." Since all that should be happening is discovery, I will have some time before I have to try to read.

I did get my Petition filed with the Supreme Court, and the clerk called to confirm that everything was in order. A number has been assigned, and it has been put on the docket.

I am going to finally finish my Petition for Writ of Mandamus to The Supreme Court to have you recused. I have all of this on my computer from when I submitted an appeal but I was told it was late. I will reformat it slightly and get it sent in.

Sincerely,

/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Marc Brown, Christopher Huber

Email

From: William M. Windsor
Sent: Fri 10/1/2010 9:46 AM

To: Jessica_Birnbaum@gand.uscourts.gov
Cc: Chris.Huber@usdoj.gov;
CAnderson@hptylaw.com
Subject: Windsor Medical Update -- October 1, 2010

Ms. Birnbaum:

I mailed my October 1 Report by certified mail return receipt yesterday.

There are two developments since then.

First, steroid eye drops were prescribed for my blood red left eye. After I used up all of the earlier medications, I immediately developed an infection where the major incisions were made on the nose side of my eye. After less than two days of use, the bright red has become bright pink, so I imagine the steroids used four times a day will clear this up.

Second, I will be receiving a new relatively-experimental pair of glasses. They have been ordered from the only manufacturer in California. My prescription as faxed yesterday, and I call at 11 am to learn how soon they can be shipped. This pair of glasses may be the answer to my inability to read. The new glasses are called Trufocals. They are patented, and only the inventor has them.

Each "lens" is actually a set of two lenses, one flexible and one firm. The flexible lens (near the eye) has a transparent distensible membrane attached to a clear rigid surface. The pocket between them holds a small quantity of crystal clear fluid. As you move a slider on the bridge of the glasses, it pushes the fluid and alters the shape of the flexible lens. Changing the shape changes the correction. This mimics the way the lenses in my eyes used to perform before the surgeries.

This allows me to choose the exact correction that works best for me at any distance and under any lighting conditions. The result: clear, undistorted vision over a wide field of view: no zones, no lines, and allegedly no headaches, dizziness, or nausea. It is believed that the progressive lenses that my newly-created eyes simply do not want to work with the progressive lenses that were prescribed. Progressive lenses have only tiny areas that are in focus for people. Some people use them with no problem. Pre-surgery, I used them with no significant problem. But I literally can't user the new progressive lenses that were prescribed. Dr. Kurtin has a video on his site that talks about how many people have a problem with progressive lenses. Here is the web site -- http://trufocals.com/ I am anxious to get them. As it has been explained to me, I won't be dealing with the magnification that I can't tolerate with the traditional corrective lenses for presbyopia. Instead, this combination of a rigid lens and a flexible, liquid-adjusted lens should provide a clear, undistorted vision over a wide field of view. If it works, I am back in business potentially better than ever.

I will email as soon as I get the glasses as I will know instantly if they are going to work.

William M. Windsor
bill@billwindsor.com
Office: 770-578-1094

Email

From: William M. Windsor
Sent: Thu 10/7/2010 3:11 PM

To: Jessica_Birnbaum@gand.uscourts.gov
Cc: Chris.Huber@usdoj.gov;
CAnderson@hptylaw.com
Subject: FW: Windsor v. MOTM - Ltr to Judge Duffey

Dear Judge Duffey:

I write in response to the attached letter from Mr. Carl Hugo Anderson.

Mr. Anderson is a pathological liar. He has lied thousands of times in filings with the courts in this and related matters. Since this Court has found it necessary for me to provide third-party proof of medical treatments, it is time for this Court to require Mr. Anderson to provide proof of anything that he says or files. He and his clients are as guilty as sin, and all this Court has to do is ask them to provide proof that anything they say in unsworn filings is true. They will be unable to do so. Failure to require sworn affidavits attempting to contradict my proof will be a further demonstration of pervasive bias.

Mr. Anderson should be disbarred. In a related matter, this Court dismissed a Complaint of Professional Misconduct claiming I failed to file proof. Since I have all of that proof on my computer so I can read it, I will be filing it with the Court with

a new Complaint. This is a most serious matter than needs immediate attention.

Mr. Anderson's letter is disgusting. How dare this liar question anything that I have ever said or done. He knows that he and his clients belong behind bars for what they have done. This Court should never believe a word that he says or writes.

I have advised Mr. Anderson, Mr. Huber, and this Court that I have been unable to read since July 6. I have explained repeatedly in letters that this Court, Mr. Anderson, and Mr. Huber have that I have been able to read on a giant monitor with large type that sits two feet away from me. I have copies of all of those letters and emails if I need to provide them yet again.

Mr. Anderson falsely and maliciously claims that I did not provide a letter from a doctor. He was sent a copy just as was Mr. Huber. This Court was sent two copies. I have consulted with at least five doctors. I have provided this Court with the names and dates of most of these visits. I will now add Dr. Pere to the list as I see him for a second opinion on the 11th at 3:10. I'm not sure if I ever mentioned Dr. Gross, but he was also involved in early July when I first had complications with the first surgery on my left eye. If Mr. Anderson will provide sworn under penalty of perjury affidavits addressing every point in my original complaint in 1:09-CV-02027-WSD, I will happily go and get letters from Dr. Blasberg, Dr. Kaufman, Dr. McCluskey, Dr. Gross, Dr. Neufeld, Dr. Hewitt, Dr. Pere, and Dr. Kurtin. I can probably get letters from Lisa Lange, Kat

Barber, Maria, Alisha, David, Sasha, Terry, Alphonso, Bruce, and several other PA's and medical assistants with Thomas Eye Group.

Unlike Mr. Anderson and his clients, I have never and will never misrepresent anything to this or any Court. I WOULD NEVER LIE IN COURT OR IN A LEGAL PROCEEDING. Never! Mr. Anderson knows this, and his letter is dishonest because that is how Mr. Anderson conducts law. He lies, cheats, steals, and commits criminal acts with reckless abandon.

As to the things that I have filed recently, I had no choice. The Supreme Court rules allow only a specified period of time for Petitions to be filed, and I had to file or lose. The Eleventh Circuit ignored the facts as they usually do, and I was given deadlines that I had to meet or lose. Mr. Anderson filed a bunch or garbage in 1:09-CV-01543-WSD, and I was forced to respond. In many of these filings, I have stated that I was unable to read, so my research was limited to that which had already been done and was in Microsoft Word files on my computer. Fortunately, I made it a practice pre-surgery to research the issues when I filed my Notice of Appeal, and my Notices of Appeal were like informal appellate briefs. In each and every case where I have filed something, I was able to use something that was already on my computer. And if I need to prove that in a court of law, I will have no trouble doing so.

Mr. Anderson claims I have to file something in DC by the 15th. I have not received any notification of

that by the DC Court of Appeals. I filed something with them a month or so ago stating that I was unable to meet their filing deadline because I could not read.

I HOPE I will be able to read without being completely dizzy and with a constant headache using the temporary reading glasses that I am obtaining. If I can't and this Court wants to move forward, I will do what I can. I have no choice. Until the experimental glasses come in another 6-7 weeks, there is apparently nothing else that I can do except possibly one other surgical procedure that I have been advised to consider. I will ask Dr. Pere about that on the 11th and Dr. Kaufman at our appointment on the 14th.

Mr. Anderson has been subpoenaing the financial records of my family members in 1:09-CV-01543-WSD. This Court needs to put a stop to all of this nonsense immediately. I have stated under oath under penalty of perjury that I have not "squirreled away my assets" or whatever malicious claim Mr. Anderson makes. I have given nothing to anyone. Mr. Anderson has my personal financial statement and copies of the last four years' tax returns, bank records, and more. His attempts to get information that does not exist, and for which he has no valid reason whatsoever to believe exists, is completely and totally improper.

Judge Duffey, please put an end to Mr. Anderson's improper efforts in 1:09-CV-01543-WSD by formally issuing a stay order until The Supreme Court acts on my Petition for Writ of Certiorari and on my Petition

for Writ of Mandamus to have you disqualified. Mr. Anderson has already illegally filed liens on the assets of my wife and myself, and the only reason I have not filed state court lawsuits in Fulton and Cobb counties is because I can't read. I already have the research from information filed back in April or May with Judge Evans, so I will pull that up on the computer and get those filed. I will seek restraining orders in each case.

In 1:09-CV-02027-WSD, I ask you to issue rulings on my motion to add you and other judges as parties to the case. I ask you to issue a ruling on my request for subpoenas to begin the depositions of the Defendants and production of documents. I don't recall anything else that requires a response until the discovery is completed, and I ask that you issue an order so stating.

I also ask that you remove the filing restrictions that I believe you have improperly and illegally imposed in both actions. This Court has no legal basis to pick and choose what it chooses to consider from a litigant and when. If you do not remove these filing restrictions, I will file appeals or petitions for writs of mandamus in both cases due to a violation of my Constitutional rights to due process. Unlike Mr. Anderson, I have never and will never file anything that is frivolous.

William M. Windsor
bill@billwindsor.com
Office: 770-578-1094

Email

From: William M. Windsor
Sent: Mon 10/11/2010 8:11 PM

To: Jessica_Birnbaum@gand.uscourts.gov
Cc: Chris.Huber@usdoj.gov;
CAnderson@hptylaw.com
Subject: Windsor Medical Update – October 11, 2010

I spent two hours today undergoing examinations and tests with the North Fulton Eye Group (Dr. Hewitt and Dr. Pare).

I then spent an hour at Lenscrafters ordering three different pairs of glasses.

Dr. Pare says the three surgeries were all done well, though the right eye was clearly better than the left. The "hole in the back of my eye" that Dr. Kaufman repaired on August 30 was a tear in the retina. I had not been given these specifics previously. A lot of scar tissue has formed over the tear, but he described that as relatively normal. My eyes were dilated for about the millionth time in four months, and he found no further retina or vitreous problems other than some floaters in my right eye.

Dr. Pare found that my prescription had changed slightly from a few weeks ago. He didn't seem alarmed by that, but he gave me a new prescription. He changed the reading glasses part of the prescription to make it stronger as he believes the headaches and dizziness may have been caused in

part by my eyes having to work harder than they should to read.

Dr. Pare noted that the lenses installed are the most commonly installed – Alcon. When he was examining me, I noted that the vision out of my left eye was very yellow, but I did not have that same sensation out of the right eye. He advised me that a unique thing about the Alcon lens is that it is yellow. Alcon's website claims: "**AcrySof® single-piece** IOLs are available with **Impruv™**, a patented covalently bonded yellow chromophore, providing long-term protection from potentially damaging high energy light, without compromising patients' vision or quality of life." Dr. Kaufman never told me this as it would have raised a red flag.

Twenty-five years ago, I had the same type of headaches, dizziness, and nausea that I am experiencing now from the glasses. After months and a variety of doctors, a second opinion from an eye doctor revealed that he had read that some patients developed similar problems from the effect that looking through a tint caused them. I was changed back to the clear contact lenses, and the problem immediately went away. Had I known that Dr. Blasberg was going to insert a colored lens, I would have refused.

I now suspect that my problems are caused by the lenses that were implanted in my eyes.

Dr. Pare will only say at this point that he feels it is a possibility, though he has never experienced that with a patient. Dr. Pare wants to first try three

things. I have ordered three new pairs of glasses. One pair is a bifocal – a lens to improve distance vision on top and a lens for reading on the bottom; these are not progressive at all. The second pair is a progressive lens with the new prescription. While it is more likely that my new eyes simply won't tolerate progressives, he feels the stronger reading part of the progressives is worth trying. The third pair is strictly a single vision reading glass using the new prescription that he gave me today. Lenscrafters had none of the needed lens material in stock, so it will take as long as two week from today.

If these or the Trufocal glasses (five weeks away) don't work, Dr. Pare will have to consider the yellow lens issue. I assume these lenses can be removed and replaced, but we didn't actually get that far in the discussion.

Dr. Pare has also referred me to another surgeon who does a different type of ocular surgery from what he does. I will make an appointment with him tomorrow. This surgeon will run tests to determine if a surgical procedure is needed to resolve the issue that my eyes always feel "heavy."

I see Dr. Kaufman for a follow-up visit on Thursday at 2:15. Judge Duffey or his designated representative is certainly invited to attend. Thomas Eye Group at St. Joseph's Hospital – fourth floor.

William M. Windsor
bill@billwindsor.com
Office: 770-578-1094

Email

From: William M. Windsor
Sent: Fri 10/15/2010 3:13 PM

To: Jessica_Birnbaum@gand.uscourts.gov
Cc: Chris.Huber@usdoj.gov;
CAnderson@hptylaw.com
Subject: Windsor Medical Update

I have seen three doctors this week. Dr. Pare has referred me to Dr. Balin for a possible surgery. Dr. Kaufman has referred me again to Dr. Neufeld for a different possible surgery on the left eye. Dr. Kaufman believes a blocked tear duct may be causing my left eye to water such that "tears" stream down the left side of my face. (See http://www.hopkinsmedicine.org/sinus/surgical_procedures/tear_duct_surgery.html)

I have a problem believing that my tear ducts just happened to become obstructed with all of these other eye problems. What I read about tear ducts is that it is a nasal problem. But I will ask Dr. Balin on Tuesday as I suspect he also does that type of surgery.

Dr. Kaufman did pause when I asked him about the yellow Alcon lens. He didn't say it, but I sensed that when he heard about my previous problems with a tinted contact lens, he was thinking that the yellow lens could be the biggest part of my eye problem now. Alcon has not responded. I am notifying Blue Cross Blue Shield because I know they won't agree to pay to have these lenses replaced unless they

reverse payment to Thomas Eye Group for the original cataract surgeries.

Here's what I think will happen. On or about October 24th, I will have three new pairs of glasses. If any of the three enable me to read, I will be as good as I am probably ever going to be. If they don't work, I will have two options – TruFocals or surgery to replace the lenses. The estimated shipping date on the TruFocals is still November 23. I will delay surgery until I see if those work. If those don't work, I will have the yellow lenses replaced with clear if Blue Cross will pay for it.

Should Dr. Balin indicate on Tuesday that he can do surgery that he believes will alleviate the dizziness, lightheadedness, nausea, and headaches, I might go ahead with that surgery as soon as possible. I believe I will only be incapacitated for a few days.

I still can't read paper unless I extend it the full length of my arm. If the type isn't too small, I can read that way. I have given up on glasses...just waiting for the new ones to come in 10 days or so. I can adjust my giant monitor to read most things, though pdf files can't be magnified apparently. If I have a Microsoft Word file, I can blow it up and read it.

If Judge Duffey is anxious to let the battles resume, I am willing. If he could require that everything be done in Microsoft Word format, I could read that. Pdf's are a problem, so I will see if I can buy some software that gives me more pdf capabilities. Since all orders and exhibits and such are in pdf's, this is

an issue. Everything takes me much longer to do. Typing is still a real challenge because I can't read the keys very well, and I make many typos. So, if times for different things could be set with that problem in mind, it would be appreciated. I would ask the Court to spell out what is needed and when since I essentially haven't read anything that has come over the last 3½ months.

That said, I believe everything should be stayed based upon pending appeals. If the Court doesn't see it that way, please issue an order accordingly. I am trying to get a state court complaint prepared and filed to seek a TRO and an injunction regarding the improper issuance of a writ of execution in 1:09-CV-01543-WSD and Maid of the Mist's filing of that. I also plan to type up a Petition for Writ of Mandamus to The Supreme Court to have Judge Evans disqualified, and I will ask The Supreme Court to conduct an in camera inspection of the two documents under seal that I believe will prove fraud by Maid of the Mist and wrongdoing by Judge Evans.

If Judge Duffey is willing to wait nine more days before resuming activity in the cases, I have fingers crossed that one of the pairs of glasses may work.

I will report again after I see Dr. Balin unless Judge Duffey prefers that I don't report again until the required monthly report on November 1.

William M. Windsor
bill@billwindsor.com
Office: 770-578-1094

William M. Windsor

P.O. Box 681236 * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106
williamwindsor@bellsouth.net

October 18, 2010

Judge William S. Duffey
United States District Court
Richard B. Russell Federal Building and U.S. Courthouse
75 Spring Street, SW
Atlanta, Georgia 30303

Re: Civil Action File No. 1:09-CV-01543-WD

Dear Judge Duffey:

Enclosed is the email that I sent to Ms. Jessica Birnbaum on Friday after I received an email and letter that Carl Hugo Anderson sent to you.

I have just submitted a Request for Specific Approval to file an Emergency Motion for a Conference. Please consider this as I am sure it will reduce everyone's workload and remove confusion about where things stand.

I have also just submitted a Request for Specific Approval to file a Motion to Compel Production of Documents for In Camera Inspection. PLEASE consider this as well. This will prove fraud upon the court and make everyone's life easier except Carl Hugo Anderson's.

Sincerely,

/s
William M. Windsor

cc: Carl Hugo Anderson, Sarah Bright, Marc Brown, Christopher Huber

Email

From: William M. Windsor
Sent: Tue 10/19/2010 3:20 PM

To: Jessica_Birnbaum@gand.uscourts.gov
Cc: Chris.Huber@usdoj.gov;
CAnderson@hptylaw.com
Subject: Windsor medical Update -- October 19, 2010

I saw Dr. Eric Baylin today. He is an oculofacial surgeon who has a specialty with ocular issues. He ran several tests, and he is scheduling me for Ptosis repair and Levator Advancement surgery.

Dr. Baylin feels that at least part of my problem with "heavy eyes," dizziness, and headaches is the fact that my eyelids have dropped because the Levator muscle became weakened from the Cataract and vitreous/retina surgery. Dr. Blasberg had referred me to Dr. Neufeld as did Dr. Kaufman a week ago over this issue. Dr. Blasberg noted prior to cataract surgery that I had droopy eyelids that could be causing some problems.

Dr. Baylin says that this condition happens after some cataract surgeries because most people's eyelids droop as they get 60+. Because they use instruments that are like reverse vises that stretch your eye area as wide open as they can get it, and the eye areas stay in this position throughout surgery, this will cause some patient's Levator muscle to "poop out" from the stretching. My left eye has been stretched for two surgeries, not to mention the stretching that has been done over the last three

months with ultrasounds of the eye and every type of retina examination.

I am attaching some links. If you look at this page, go down to the bottom and my eyelids look like this man's right eye. My eyelids have drooped to where they cover half of my pupils --
http://www.snof.org/chirurgie/eyelidsurg5.html

When Dr. Baylin took a Q-Tip and showed me the impact that the surgery will have, I felt better with a Q-Tip rolled up in the eyelid. My peripheral vision up and down was dramatically improved. He took photos for Blue Cross, but he deals with them all the time, and he says my condition is not even close to borderline; I am way over the line in the must-have surgery category.

Dr. Baylin stays booked up, but his surgical coordinator, Natalie, will call me tomorrow to schedule it. I will also put my name on the waiting list should they have a cancellation before my scheduled time as I know Carl Hugo Anderson is anxious to get things rolling again and have me take his deposition.

Dr. Baylin says the surgery takes at least 45 minutes. Both eyes have to be done and balanced. It will be done at a hospital in Cumming that I believe he said was a Northside hospital. He said I will be hurting for a couple of days, in decent-looking shape within a week, and in good shape by two weeks. This is not a surgery of the eyeballs.

Dr. Eric Baylin – 770-604-4141 – DrEricBaylin.com

http://emedicine.medscape.com/article/1212082-overview

http://bjo.bmj.com/content/47/3/138.citation

In another development, Alcon (intraocular lens manufacturer) has opened a file on me. Two ladies from there have called me. I explained the tint issue, and they are supposed to get back to me to identify someone who can run special tests.

That's the news for now. I would welcome a conference as I would guess Carl Hugo Anderson and Mr. Huber would.

If you want a letter from Dr. Baylin, may I simply write him a letter authorizing him to provide a letter and speak to Judge Duffey? That way, Judge Duffey can call him if he prefers, and it will take me out of the loop of incompetent medical assistants who don't get paperwork tasks handled. Similarly, if you want letters from Dr. Blasberg, Dr. McCloskey, and Dr. Pare, I make a similar request. I am sure each of them will provide a letter.

My three new pairs of glasses should be here in a week.

William M. Windsor
bill@billwindsor.com
Office: 770-578-1094

Email

From: William M. Windsor
Sent: Thu 10/21/2010 11:47 AM

To: Jessica_Birnbaum@gand.uscourts.gov
Subject: Windsor Medical Update -- October 21, 2010

I will advise Carl Hugo Anderson and Mr. Huber that I have sent this information, but I will not provide my personal medical information to them anymore.

William M. Windsor
bill@billwindsor.com
Office: 770-578-1094
ENCLOSURES:

William M. Windsor

3924 Lower Roswell Road * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106

October 21, 2010

Dr. Robert Blasberg
Thomas Eye Group
Fax: 678-538-1976

Dear Dr. Blasberg:

I went to Dr. Richard Paré for a second opinion on why I am dizzy, lightheaded, and have headaches all the time and find it impossible to work with reading glasses. Dr. Paré said the lenses look perfect. He

came up with only a slight variance in my prescription for glasses. He suggested that I try something other than progressive lenses.

I went to Lenscrafters and ordered three new pairs of glasses as per his suggestion. I received two last night, and they make no difference in my condition.

I have a headache almost all the time. It is much worse when I try to read using any of the glasses. So, I don't even try to read except on a giant computer screen or with my arm stretched to its full length (about 30" away from my face).

When I was being examined at Dr. Paré's office, I noted that my vision with my left eye was yellowish as I looked at their chart. This led to a discussion with Dr. Paré, and he informed me that Alcon's lens is tinted yellow. I informed him that 25 years ago I had similar dizziness, lightheadedness, and headaches. I saw a general doctor, had hearing and balance tests, saw a neurologist, and perhaps other doctors who I have forgotten. They found nothing, but it was finally recommended that my eye doctor change my contact lenses. He informed me that he had read something that indicated that some people had trouble looking through tinted contact lenses. My prescription was changed to clear, and I was fine within a few days.

If you had told me that the Alcon lens was tinted, I never would have agreed to have it.

I registered a complaint with Alcon. I have spoken with Jaycee Allen and another woman there, but the

person I need to speak with, Norma, has been out sick. 800-757-9780 then press 2 and 1. I was told today that there have not been any reported problems with my lot of lenses. They claimed that you have not responded to their inquiries. I gave them the name of Lisa Lange and her email LML@thomaseye.com.

I asked Alcon if they have a test that anyone can run to determine if the tint is causing the problem for me. The woman I spoke with today did not know. Are you aware of anything that could be tested anywhere? The woman at Alcon that I am supposed to speak with is Norma – 800-757-9780, press 2 and then 1. She has been out sick, but she did open a file on me. Kelly from Alcon just called me asking the serial numbers for the lenses inserted into each eye. I advised her that she needed to get that information from you.

My concern is that Blue Cross will not want to pay to have these surgeries done twice. I called Blue Cross today, and they said I need to address these issues with you.

If I have to have lenses re-done, should I try the lens that corrects distance and reading? Or just reading? Do those lenses correct the reading vision in a way that doesn't involve magnification? From the second I out on the CVS magnifying readers, it made me really dizzy. The prescription glasses have the same effect. My eyes have been very sensitive to prescription changes over the years.

Please advise if you have a recommendation as to what I should do next.

At this point, I'd take my cataracts back. I love being able to see at a distance clearly, but I am just miserable all day every day. I don't even try to read.

The redness in my left eye has cleared up with the Durezol that you prescribed. Dr. Kaufman reduced me to two times a day until I run out. My latest follow-up report from Dr. Kaufman is that the retina looks fine.

My eyes continue to feel heavy. You indicated that you hear that and didn't know what that meant. I raised the heavy eyes with both Dr. Kaufman and Dr. Paré. Dr. Kaufman referred me to Dr. Neufeld, and Dr. Paré referred me to Dr. Eric Baylin. I saw Dr. Baylin on Tuesday, and he did tests, took photographs, and showed me how my eyelids have dropped so that they extend to the top of the center of my pupil. He is scheduling me for surgery to repair the Levator muscle. He believes this is part of the reason for my discomfort. Blue Cross has acknowledged coverage. I am going on Dr. Baylin's waiting list so I can get this done as soon as possible so we can scratch this issue off the list before considering replacing the lenses.

The only other thing I have working is that I am three weeks or so away from receiving a pair of TruFocals glasses. I am hoping that the experimental glasses may be a solution to the reading problem.

Please let me know what you recommend at this point – 404-606-1885

Thanks,

/s
William M. Windsor
williamwindsor@bellsouth.net
DOB: 10-2-48

William M. Windsor

3924 Lower Roswell Road * Marietta, GA 30068 * 770-578-1094 * Fax: 770-234-4106

October 21, 2010

Dr. Richard Paré
North Fulton Eye Center
Fax: 770-442-9526

Dear Dr. Paré:

I went to Lenscrafters and ordered three new pairs of glasses as per your suggestion. They make no difference in my condition.

I have a headache almost all the time. It is much worse when I try to read using any of the glasses. So, I don't even try to read except on a giant computer screen or with my arm stretched to its full length (about 30" away from my face).

I registered a complaint with Alcon. I have spoken with Jaycee Allen and another woman there, but the person I need to speak with, Norma, has been out sick. 800-757-9780 then press2 and 1. I was told today that there have not been any reported problems with my lot of lenses. I was told that Dr. Blasberg had not responded to their inquiries. I gave them the name of his surgical coordinator, Lisa Lange and her email LMI@thomaseye.com.

My concern is that Blue Cross will not want to pay to have these surgeries done twice. Please advise if you have a recommendation as to what I should do next.

I asked Alcon if they have a test that anyone can run to determine if the tint is causing the problem for me. The woman I spoke with today did not know. Are you aware of anything that could be tested anywhere?

If I have to have lenses re-done, should I try the lens that corrects distance and reading? Or just reading? Do those lenses correct the reading vision in a way that doesn't involve magnification?

At this point, I'd take my cataracts back.

Please call me if you have any questions – 404-606-1885

Thanks,
/s
William M. Windsor
williamwindsor@bellsouth.net
DOB: 10-2-48

Supreme Court, U.S.
FILED
FEB - 4 2011
OFFICE OF THE CLERK

No. 10-632

In The
Supreme Court of the United States

WILLIAM M. WINDSOR,
Petitioner

v.

UNITED STATES OF AMERICA, JUDGE ORINDA D. EVANS, HAWKINS & PARNELL, LLP, CARL HUGO ANDERSON, PHILLIPS LYTLE, LLP, CHRISTOPHER M. GLYNN, TIMOTHY P. RUDDY, ROBERT J. SCHUL, JUDITH L. BERRY, MAID OF THE MIST CORPORATION, MAID OF THE MIST STEAMBOAT COMPANY, LTD., SANDRA CARLSON, MARC W. BROWN, ARTHUR RUSS. AND DOES 1 TO 100,
Respondents

On Petition for Writ of Mandamus
To The United States Court of Appeals for The Eleventh Circuit

PETITION FOR REHEARING

William M. Windsor
Pro Se
PO Box 681236
Marietta, GA 30068
770-578-1094

Petitioner William M. Windsor ("Windsor" or "Petitioner") hereby files this Petition for Rehearing pursuant to Supreme Court Rule 44.

FACTUAL BACKGROUND

1. From March 2006 to the present, federal judges have acted in a corrupt manner and have committed a variety of felonies to damage Windsor.

2. On October 15, 2010, the Petition for Writ of Mandamus was filed with this Court.

3. A Motion to Compel Production was submitted to the Clerk for filing. It was never filed or considered.

4. On January 18, 2011, the Supreme Court Docket online indicates that the Petition for Writ of Mandamus was denied. Windsor received an alleged "order" that is nothing but a letter.

ARGUMENTS AND AUTHORITY

5. Windsor seeks to have this Court rehear this Petition for substantial grounds not previously presented.

THE JUSTICES OF THE UNITED STATES SUPREME COURT HAVE VIOLATED THEIR OATHS OF OFFICE IN DENYING THIS PETITION.

6. The justices of The United States Supreme Court have violated their oaths of office in denying this Petition.

7. The Supreme Court web site provides the oaths of office that are required: http://www.supremecourt.gov/about/oath/textoftheoathsofoffice2009.aspx.

8. 5 U.S.C.§3331 provides the oath that is now taken by all federal employees, including members of the Supreme Court:

> "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

9. The Judicial Oath, found at 28 U.S.C.§453, is also taken by each justice of the Supreme Court:

> "I, _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as _____ under the

Constitution and laws of the United States. So help me God."

10. The questions presented to this Court in this Petition for Writ of Certiorari were:

> "There is no legal or factual basis whatsoever for the decisions of the lower courts in this matter. These rulings were issued for corrupt reasons. Many of the judges in the Northern District of Georgia and the Eleventh Circuit are corrupt and violate laws and rules, as they have done in this case. Then Supreme Court must recognize this Petition as one of the most serious matters ever presented to this Court.
>
> "The key questions are:
>
> 1. Whether federal courts must be stopped from operating corruptly and ignoring all laws, rules, and facts.
>
> 2. Whether the Supreme Court is prepared to declare the Constitution and its amendments null and void."

11. The information presented to this Court included the following:

> "The citizens of the United States expect and deserve a fair trial. They expect and deserve honesty and fairness from judges. They believe courts issue carefully-considered opinions that explain why their decisions are justified. Citizens do not expect that one

party can lie continually in court and get away with it. Citizens do not expect that judges may violate the rules and criminal statutes as part of a scheme to cheat a litigant. This is precisely what is happening in this case.

"The Constitution allegedly guarantees citizens a fair and impartial judge. The Eleventh Circuit and the Northern District of Georgia have not protected this guarantee. (***Liteky v U.S.***, 510 US 540 (1994). They have completely and totally disregarded this guarantee.

"Currently, no citizen can feel that there is anything but corruption in the federal courts in Atlanta, Georgia. The Supreme Court is the only hope to rectify this as all government officials have ignored the issue.

"There is NOTHING whatsoever right with any of the decisions of the district courts and the Eleventh Circuit in this and related matters. The facts are that Windsor has always been totally in the right. The law provides that Windsor should have always prevailed on every meaningful issue. These judges have knowingly violated the law and the rules to protect Judge Orinda D. Evans from criminal prosecution and impeachment. There is nothing legally, ethically, or morally right about what these judges have done.

"For all the above reasons, the Petitioner now respectfully prays that this Court grant a Writ

for Certiorari to review the judgment and opinions of the Eleventh Circuit.

"This Court should ask the House and Senate Judiciary Committees to investigate the federal judiciary in Atlanta.

"This Court should remand this matter to a different circuit where Windsor's Constitutional rights might be honored."

12. This Court was therefore well aware of criminal charges of felonies against this federal judge in Atlanta and serious violations of Constitutional rights. And the justices of The Supreme Court ignored it.

13. Windsor's Petition was unopposed, so Windsor's claims were uncontroverted. But the justices of The Supreme Court ignored it.

14. The oaths of office taken require each justice to "defend the Constitution of the United States against all enemies, foreign and domestic" and "bear true faith and allegiance to the same...." The justices of The Supreme Court have failed to defend the Constitution against a domestic enemy – the federal judges in Atlanta, Georgia. By refusing to address this Petition, the justices of The Supreme Court have allowed federal courts to operate corruptly and ignore all laws, rules, and facts. The justices of The Supreme Court are allowing federal judges to treat the Constitution and the Bill of Rights as if they are null and void. The justices of The Supreme Court have failed to defend the

Constitution.

15. This error must be corrected by having this Court rehear the Petition. This Court has no choice but to defend the Constitution by granting the Petition.

THE CLERK OF THE UNITED STATES SUPREME COURT HAS VIOLATED THE LAW, THE RULES, AND WINDSOR'S CONSTITUTIONAL RIGHTS BY FAILING TO FILE PROPERLY PRESENTED MOTIONS.

16. Windsor submitted a proper motion to the Clerk that will provide documentary proof of the fraud and illegal acts of the judges, but the Clerk did not file the motion, did not indicate to Windsor that there was any problem with the motion, and the motion was not properly considered.

THE ORDER DENYING THIS PETITION VIOLATES 28 U.S.C.§1691. IT DOES NOT CONTAIN THE SEAL OF THE COURT OR THE SIGNATURE OF A CLERK WITH THE NECESSARY CREDENTIALS.

17. The so-called order denying this Petition is a letter, not an order, and it does not bear the seal of the clerk.

18. 28 U.S.C.§1691 requires: "All writs and process issuing from a court of the United States shall be under the seal of the court and signed by the clerk thereof." The Order is invalid, so the Petition must be reheard.

19. The word "process" at 28 U.S.C. 1691 means a court order. See ***Middleton Paper Co. v. Rock River Paper Co.,*** 19 F. 252 (C.C. W.D. Wisconsin 1884); ***Taylor v. U.S.***, 45 F. 531 (C.C. E.D. Tennessee 1891); ***U.S. v. Murphy***, 82 F. 893 (**DCUS** Delaware 1897); ***Leas & McVitty v. Merriman***, 132 F. 510 (C.C. W.D. Virginia 1904); ***U.S. v. Sharrock***, 276 F. 30 (**DCUS** Montana 1921); **In re Simon**, 297 F. 942, 34 ALR 1404 (2nd Cir. 1924); ***Scanbe Mfg. Co. v. Tryon***, 400 F.2d 598 (9th Cir. 1968); and ***Miles v. Gussin***, 104 B.R. 553 (Bankruptcy D.C. 1989).

THIS COURT DID NOT HAVE A QUORUM TO VOTE ON WINDSOR'S PETITION AS DOCUMENTATION REQUIRED TO BE MAINTAINED BY THIS COURT IS INCOMPLETE.

20. Upon information and belief, the documentation required for justices is not complete.

21. Upon information and belief, required credentials documentation is not filed as required for justices Roberts, Thomas, Ginsburg, Breyer, and Alito. It is also possible that credentials are missing for recently appointed judges.

22. 5 U.S.C.§2906 reads as follows:

> The oath of office taken by an individual under section 3331 of this title shall be delivered by him to, and preserved by, the House of Congress, agency, or court to which the office pertains.

23. If the Supreme Court does not have the necessary credentials on file, these justices do not have the right to rule on any matters. If there was not a quorum, the "order" denying the Petition is invalid. Windsor demands to see the credentials that were on file.

24. Upon information and belief, the required credentials are missing for William K. Suter dba "Clerk of Court."

25. If this is correct, any "orders" signed by Mr. Suter is invalid as he did not have the legal credentials filed that are required.

THIS COURT VIOLATED ARTICLE III SECTION 2 OF THE CONSTITUTION OF THE UNITED STATES.

26. Article III Section 2 of the Constitution provides: "The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority...."

27. This Court's judicial power is dependent upon the Constitution, yet this Court ignored the Constitution in denying Windsor's Petition.

28. Windsor submits that this Court has no authority or right to ignore claims of the violation of Constitutional rights that are presented to this Court. The Constitution makes it very clear that it and only it provides judicial power. Therefore, any court that knowingly allows violations of the Constitution has no power and is functioning without jurisdiction.

29. This Court must grant the petition and declare that Windsor's Constitutional rights have been violated. Failure to do so must be considered a violation of the Constitution by the justices of this Court.

THIS COURT IGNORED THE CONSTITUTIONAL CRISIS THAT EXISTS IN THE UNITED STATES.

30. Federal judges have turned the United States into a police state in which they wield tyrannical power, intentionally violating the Constitution, laws, rules, and their oath.

31. The most basic so-called "guarantees" of the Constitution have been stolen from us by corrupt federal judges. We might as well be living in a Communist country where we have been shocked to hear of the violation of the rights of the citizens. It has become just as bad in the United States when this is allowed to happen and no one will do anything about

it.

32. The Supreme Court is the only hope for anyone to do anything about this, and it is The Supreme Court's primary legal obligation to ensure that the Constitution is not being violated by federal judges.

THIS COURT VIOLATED ITS OWN LAW BY FAILING TO PROVIDE AN EXPLANATION OF ANY SORT IN THE ORDER DENYING THE PETITION.

33. In 2009, this Court issued an order requiring federal courts to issue orders with an explanation.

> "...courts err in disposing of claims without explanation of any sort." (***Corcoran v. Levenhagen***, 558 U.S. ___ (2009), (08-10495).)

34. This Court violated its own law by issuing a one-word decision.

35. This Court has an obligation to the citizens of the United States.

THE JUSTICES OF THIS COURT AND ALL WHO READ THE PETITION HAVE A LEGAL OBLIGATION UNDER 18 U.S.C.§4 TO REPORT FELONIES.

36. 18 U.S.C.§4 states that:

> "Whoever, having knowledge of the actual

commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both."

37. Windsor has provided proof of felonies to this Court. Therefore, each of the justices of The Supreme Court has a legal obligation to report these crimes to law enforcement authorities. Each of the clerks and the approximately 40 people who were supposed to read the Petition also have the same legal obligation. This Court must do as Windsor asked and refer this matter to a Grand Jury in Atlanta, Georgia.

38. Windsor asks the 40 people receiving this Petition for Rehearing to report these crimes. If this is not done, Windsor intends to file charges against each of the justices and the 40 recipients for violation of 18 U.S.C.§4, and a verified complaint pursuant to Bivens, RICO, and more.

39. Judge Orinda D. Evans has committed the following crimes:

RICO; Theft by Deception -- O.C.G.A. 16-8-3; False Statements to State – Violation of O.C.G.A. 16-10-20; Tampering with Evidence – O.C.G.A. 16-10-94; Mail Fraud – Violation of 18 U.S.C. § 1341; False Swearing – Making False Statements – Violation of

18 U.S.C. § 1001; Perjury – Violation of 18 U.S.C. § 1621, 18 U.S.C. § 1623, AND O.C.G.A. 16-10-70; Conspiracy to Defraud United States -- 18 U.S.C. § 371; Obstruction of Justice and Witness Tampering -- 18 U.S.C. § 1503; Subornation of Perjury – Violation of 18 USC § 1622, O.C.G.A. 16-10-72, and O.C.G.A. 16-10-93; Witness Tampering – Violation of O.C.G.A. 16-10-93.

40. Judge William S. Duffey, Jr. has committed the following crimes: RICO; Tampering with Evidence – O.C.G.A. 16-10-94; Mail Fraud – Violation of 18 U.S.C. § 1341; False Swearing – Making False Statements – Violation of 18 U.S.C. § 1001; Perjury – Violation of 18 U.S.C. § 1621, 18 U.S.C. § 1623, AND O.C.G.A. 16-10-70; Conspiracy to Defraud United States -- 18 U.S.C. § 371; Obstruction of Justice and Witness Tampering -- 18 U.S.C. § 1503; Subornation of Perjury – Violation of 18 USC § 1622, O.C.G.A. 16-10-72, and O.C.G.A. 16-10-93; Witness Tampering – Violation of O.C.G.A. 16-10-93.

41. Judges of the Eleventh Circuit have committed the following crimes:

RICO; Theft by Deception -- O.C.G.A. 16-8-3; Mail Fraud – Violation of 18 U.S.C. § 1341; False Swearing – Making False Statements – Violation of 18 U.S.C. § 1001; Perjury – Violation of 18 U.S.C. § 1621, 18 U.S.C. § 1623, AND O.C.G.A. 16-10-70; Conspiracy to Defraud United States -- 18 U.S.C. § 371; Obstruction of Justice -- 18 U.S.C. § 1503;

Subornation of Perjury – Violation of 18 USC § 1622, O.C.G.A. 16-10-72, and O.C.G.A. 16-10-93.

42. Proof of these crimes is detailed in the Dockets in Civil Action 1:06-CV-0714-ODE, 1:09-CV-01543-WSD, and 1:09-CV-02027-WSD, and in Supreme Court Actions Nos. 10-411, 10-632, 10-633, and 10-690.

THIS COURT HAS AN OBLIGATION TO START CLEANING UP AMERICA

43. If this Court is not aware that our judicial system is corrupt, shame on you. If this Court is aware that our judicial system is corrupt and has done nothing about it, shame on you.

44. Atlanta's federal courts are filled with corruption. Windsor presents the following arguments in first person:

45. I always knew there were problems with our legal system, but I thought it was just unscrupulous lawyers. I never dreamed that federal judges were corrupt and routinely commit crimes, but they do.

46. I have charged nine federal judges in Atlanta with corruption and dishonesty, and I now need to add to that list. From my personal experience, these judges ignore the law, ignore the facts, and commit criminal acts while hiding behind their judicial robes and the "judicial immunity" that the judges have given themselves over the years. These judges don't

make mistakes; they do all of this intentionally.

47. I hope this is limited to Atlanta, but I fear that it is widespread in the federal judiciary in America. From my experiences here, the federal judges do whatever the heck they want to do. I do not have any proof that judges have been bribed, but the thought comes to mind. With Atlanta federal District Court Judge Orinda D. Evans, I have learned that she is evil. She has a reputation that she will twist the law and the facts to decide however she wants to decide. I have seen the darkest of her sides. She is truly an evil woman.

48. In the history of the United States, only nine federal judges have been impeached. Atlanta could top that in one fell swoop.

49. Judges are supposed to tell the truth at all times, but these judges have made false statements routinely. These were material false statements made under the judges' oath of office in a federal proceeding. These judges knew statements that they made were false.

50. Judges are supposed to provide due process to the parties in their courts, but I have had just about every form of due process denied. I have not been allowed to present evidence, call witnesses, cross examine witnesses, have an impartial judge, and much more. The latest outrage is that Judge Evans and Judge Duffey have intercepted lawsuits

that I filed against them. They got the Clerk of the Court to refuse to enter them on the docket, and then a month later, Judge Evans issued an injunction against me that stops me from filing any lawsuits. The injunction was issued without notice or the opportunity to be heard.

51. These judges routinely ignored the facts and the law and even invented their own facts. These judges have made rulings that are absolutely contrary to the law.

52. I have three grandchildren - Madison, Mackenzie, and Katherine. I drive Madison's carpool once a week. She is unbelievably intelligent and worldly for a seven-year-old. As we drove home one day, she told me they were studying Martin Luther King. She asked me to tell her about those times, so I did. She asked me what I did to stop the prejudice and all the problems. I told her that I was never prejudiced, but I didn't really do anything. She asked if I had ever done anything that made a big difference in the world. I said, no, unfortunately not. She quickly assured me that she would make a difference in the world. I absolutely believe that is true. Well, I hope I can do something vitally important to every American with my efforts to expose corruption in the federal courts. We are all in trouble. Madison and I want to help.

53. I want to assure each of the justices of The United States Supreme Court that if you deny my Petition again, I will expose you to the world. I will seek your impeachment. I will file a civil suit against you. I will file criminal charges against you, and I won't stop for as long as I live.

54. For Heaven's sake, do what is right. End the judicial corruption before it ends America.

WHEREFORE, Windsor requests that the Court order as follows:

(1) grant WILLIAM M. WINDSOR'S PETITION FOR REHEARING;
(2) grant WILLIAM M. WINDSOR'S PETITION FOR WRIT OF MANDAMUS; and
(3) grant such other and further relief as justice requires.

Respectfully submitted, this 4 day of February, 2011.

WILLIAM M. WINDSOR
Pro Se

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Phone: 770-578-1094, Fax: 770-234-4106
Email: williamwindsor@bellsouth.net